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THE
ACTS
OF THE
GENERAL ASSEMBLY
OF
PRINCE EDWARD ISLAND,

FROM
THE SIXTEENTH YEAR OF THE REIGN OF HER PRESENT MAJESTY
QUEEN VICTORIA, A. D. 1853,

TO
THE TWENTY-FIFTH YEAR OF THE SAME REIGN, A. D. 1862.

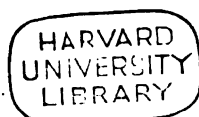
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**EDWARD PALMER,
JOHN LONGWORTH,
WILLIAM H. POPE,
*Commissioners.***

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ANNO DECIMO SEXTO

VICTORIÆ REGINÆ.

At the General Assembly of Her Majesty's Island of PRINCE 1853.

EDWARD, begun and holden at CHARLOTTETOWN, the fifth day of March, *Anno Domini*, 1850, in the thirteenth year of the reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain* and *Ireland*, Queen, Defender of the Faith:

Sir ALEXANDER
BANNERMAN,
Knight, Lieut.
Governor.

D. McDONALD,
President of
the Council.

And from thence continued, by several prorogations, to the tenth day of February, 1853, and in the sixteenth year of Her said Majesty's reign; being the fifth session of the eighteenth General Assembly convened in the said Island.

ALEXANDER
RAE, Speaker.

CAP. I.

An Act to amend the Act relating to the recovery of small debts.

Repealed by
23 Vic. c. 16.

CAP. II.

An Act to amend the free education Act, passed in the fifteenth year of the reign of Her Majesty Queen Victoria.

15 Vic., c. 13.
Repealed by
24 Vic., c. 36.

CAP. III.

See 14 Vic. c. 3.

An Act to establish the salaries payable to the Attorney General and Solicitor General, and clerk of the Crown and Prothonotary of Prince Edward Island, for their public services.

[Passed April 16, 1853.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, as follows:

Allowance to Attorney and advocate general.

I. There shall be allowed and paid unto the present or any future Attorney General and advocate general of this Island, as and for the salary of that office, the sum of two hundred pounds of lawful current money of this Island *per annum*, the same to be in lieu of all fees of office, charges, allowances and emoluments, paid or payable by the Government of this Island to the Attorney General and advocate general, on account of Crown prosecutions, or for opinions, or for putting marginal notes to the statutes, or for any other miscellaneous services performed by him for the Government in his official capacity; the said salary to be in addition to the annual salary of one hundred and fifty pounds payable to the Attorney General, under the provisions of the Act passed in the fourteenth year of the reign of Her present Majesty Queen Victoria, intituled "An Act to commute the Crown revenues of Prince Edward Island, and to provide for the civil list thereof, as well as for certain compensations therein mentioned."

Allowance to the solicitor general.

II. There shall be allowed and paid unto the present or any future solicitor general of this Island, as and for the salary of that office, the sum of one hundred pounds of lawful current money of this Island *per annum*; the same to be in lieu of all fees of office, charges, allowances and emoluments, paid or payable by the Government of this Island, to the solicitor general, on account of Crown prosecutions, or for opinions, or for any other miscellaneous services performed by him for the Government in his official capacity.

Allowance to the clerk of the Crown and Prothonotary.

III. There shall be allowed and paid unto the present or any future clerk of the Crown and Prothonotary, as and for the salary of that office, for public services to be performed, the sum of one hundred and sixty pounds of lawful current money of this Island *per annum*; the same to be in lieu of all fees of office, charges, allowances and emoluments, paid or payable to him or his deputies by the Government of this Island, on account of Crown prosecutions, or for disbursing the fees of witnesses or jurors, or for any other miscellaneous services usually performed by him for the Government of this Island, or for the doing of which he now can or hereafter, unless this Act had been passed, might make any charge against

the Government, all which services he and his deputies in King's and Prince Counties are hereafter, as heretofore, to do and perform; the salary hereby given to include the charges and fees payable by the Government on any account whatsoever, to the deputy Prothonotaries or clerks of the Crown, whose salaries or allowances are hereafter to be discharged by the clerk of the Crown or Prothonotary, out of the amount hereby granted, and are to be fixed and regulated by him.

IV. The said salaries to be paid to the various officers aforesaid respectively, shall commence and be computed from the first day of April, *Anno Domini* one thousand eight hundred and fifty-three, and shall be payable from time to time by quarterly portions or instalments thereof, respectively, which shall be due on the last day of March, June, September and December quarters in every year.

When salaries shall commence and become payable.

V. It shall be lawful for the Lieutenant Governor, at or immediately after any of the said quarterly payments of the yearly salaries and allowances, by this Act granted and allowed, shall become due as aforesaid, by and with the advice of Her Majesty's Council, to draw warrants on the Treasurer of this Island in the usual form, for or in respect of the respective officers aforesaid, for payment of the same.

Salaries, how paid.

VI. So much of the first section of the said recited Act passed in the fourteenth year of the reign of Her present Majesty, intituled "An Act to commute the Crown revenues of Prince Edward Island, and to provide for the civil list thereof, as well as for certain compensations therein mentioned," as relates to the fees and allowances at the time of the passing thereof, allowed by law to the Attorney General of this Island, saving and excepting the said salary of one hundred and fifty pounds *per annum*, payable to him by virtue of the said recited Act, shall be, and the same is hereby repealed.

Repeals a certain portion of Act 14 V., c. 3.

VII. This Act shall go into operation immediately after the signification of Her Majesty's assent thereto, but not before.

Suspending clause.

. This Act received the royal assent on the 24th day of October, 1853, and signification thereof was published in the *Royal Gazette* newspaper of this Island, on the 21st day of November of the same year.

CAP. IV.

An Act relating to certain lease and monetary obligations entered into before the passing of the currency Act.

. This Act was disallowed by Her Majesty, as appears from a despatch from His Grace the Duke of Newcastle, Her Majesty's principal Secretary of State for the Colonies, bearing date the 20th January, 1854.

CAP. V.

Expired.

An Act for raising a revenue.

CAP. VI.

Repealed by
24 Vic., c. 10.

An Act to regulate the mode of summoning grand and petit jurors, and to provide remuneration for petit jurors.

CAP. VII.

Repealed by
25 Vic., c. 2.

An Act relating to the highways in Charlottetown common and royalty, and certain other parts of Queen's County, and to the performance of statute labor and the expenditure of public money therein.

CAP. VIII.

See 6 W. 4, c.
21, and 6 W. 4,
c. 22.

An Act for further improving the administration of criminal justice.

[Passed April 16, 1853.]

WHEREAS offenders frequently escape conviction on their trials by reason of the technical strictness of criminal proceedings, in matters not material to the merits of the case: and whereas such technical strictness may safely be relaxed in many instances, so as to ensure the punishment of the guilty, without depriving the accused of any just means of defence: and whereas a failure of justice often takes place on the trial of persons charged with felony and misdemeanor, by reason of variances between the statement in the indictment on which the trial is had, and the proof of names, dates, matters, and circumstances therein mentioned, not material to the merits of the case, and by the misstatement whereof, the person on trial cannot have been prejudiced in his defence: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

The Court may amend certain variances, not material to the merits of the case, &c.

I. From and after the passing of this Act, whenever on the trial of any indictment for any felony or misdemeanor, there shall appear to be any variance between the statement in such indictment, and the evidence offered in proof thereof, in the name of any county, division, city, borough, town corporate, parish, township or place mentioned or described in any such indictment, or in the name or description of any person stated or alleged to be the owner of any property, real or personal, which shall form the subject of any offence charged therein, or in the name or description of any person therein stated or

alleged to be injured or damaged, or intended to be injured or damaged, by the commission of such offence, or in the Christian name, or surname, or both, or in the other description whatsoever of any person therein named or described, or in the name or description of any thing therein named or described, or in the ownership of any property therein named or described, it shall be lawful for the Court before which such trial shall be had, if it shall consider such variance not material to the merits of the case, and that the defendant cannot be prejudiced thereby in his defence on such merits, to order such indictment to be amended according to the proof, by some officer of the Court, or other person, both in that part of the indictment where such variance occurs, and in every other part of the indictment which it may become necessary to amend, on such terms as to postponing the trial to be had before the same or another jury, or otherwise, as such Court shall think reasonable; and after any such amendment, the trial shall proceed wherever the same shall be proceeded with, in the same manner in all respects, and with the same consequences, with respect to the liability of witnesses to be indicted for perjury and otherwise, as if no such variance had occurred; and in all such cases, the order for the amendment shall either be endorsed on the indictment or engrossed and filed with the indictment, and records of the Court; provided, that in all such cases where the trial shall be so postponed, it shall be lawful for the Court to respite the recognizances of the prosecutor and witnesses, and of the defendant and his sureties, if any, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence respectively, and the defendant shall be bound to attend to be tried at the time and place to which such trial shall be postponed, without entering into any fresh recognizances for that purpose, in the same manner as if they had been originally bound by their recognizances to appear and prosecute, or give evidence at the time and place to which such trial shall have been so postponed; provided also, that where any such trial shall be to be had before another jury, the Crown and the defendant shall respectively be entitled to the same challenges as they were entitled to before the first jury was sworn.

II. Every verdict and judgment which shall be given after the making of any amendment under the provisions of this Act, shall be of the same force and effect, in all respects, as if the indictment had originally been in the same form in which it was, after such amendment was made.

Verdicts and judgments valid after amendments.

III. If it shall become necessary at any time, for any purpose, to draw up a formal record in any case where any amendment shall have been made under the provisions of this Act, such record shall be drawn up in the form in which the in-

Records to be drawn up in amended form without noticing the amendments.

dictment, was after such amendment was made, without taking any notice of the fact of such amendment having been made.

Means of injury
need not be
specified.

IV. In any indictment for murder or manslaughter, preferred after the passing of this Act, it shall not be necessary to set forth the manner in which, or the means by which the death of the deceased was caused; but it shall be sufficient in every indictment for murder to charge that the defendant did feloniously, wilfully, and of his malice aforethought, kill and murder the deceased; and it shall be sufficient in every indictment for manslaughter, to charge that the defendant did feloniously kill and slay the deceased.

Forms of indictment in
cases of forgery, &c.

V. In any indictment for forging, uttering, stealing, embezzling, destroying or concealing, or for obtaining by false pretences, any instrument, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or fac-simile thereof, or otherwise describing the same or the value thereof.

In engraving
plates, &c.

VI. In any indictment for engraving or making the whole or any part of any instrument, matter or thing, or for using or having the unlawful possession of any plate or other material upon which the whole or any part of any instrument or thing shall have been engraved or made, or for having the unlawful possession of any paper upon which the whole or any part of any instrument or thing shall have been made or printed, it shall be sufficient to describe such instrument or thing by any name or designation by which the same may be usually known, without setting out any copy or fac-simile of the whole or any part of such instrument or thing.

In other cases.

VII. In all other cases, wherever it shall be necessary to make any averment in any indictment as to any instrument, whether the same consists wholly or in part of writing, print or figures, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out a copy or fac-simile of the whole or any part thereof.

Sufficient in any
indictment to
allege that defendant did the
act with intent
to defraud.

VIII. After the passing of this Act it shall be sufficient in any indictment for forging, uttering, offering, disposing of or putting off any instrument, or for obtaining or attempting to obtain any property by false pretences, to allege that the defendant did the act with intent to defraud, without alleging the intent of the defendant to defraud any particular person; and on the trial of any of the offences in this section mentioned, it shall not be necessary to prove an intent on the part of the defendant to defraud any particular person, but it shall be sufficient to prove that the defendant did the act charged, with the intent to defraud.

IX. And whereas offenders often escape conviction by reason that such persons ought to have been charged with attempting to commit offences, and not with the actual commission thereof: For remedy thereof, be it enacted, if on the trial of any person charged with any felony or misdemeanor, it shall appear to the jury upon the evidence that the defendant did not complete the offence charged, but that he was guilty only of an attempt to commit the same, such person shall not, by reason thereof, be entitled to be acquitted, but the jury shall be at liberty to return, as their verdict, that the defendant is not guilty of the felony or misdemeanor charged, but is guilty of an attempt to commit the same; and thereupon such person shall be liable to be punished in the same manner, as if he had been convicted upon an indictment for attempting to commit the particular felony or misdemeanor charged in such indictment; and no person tried as lastly mentioned shall be liable to be afterwards prosecuted for committing or attempting to commit the felony or misdemeanor for which he was so tried.

A party indicted for felony or misdemeanor may be found guilty of an attempt to commit the same.

X. If upon the trial of any person upon an indictment for robbery, it shall appear to the jury, upon the evidence, that the defendant did not commit the crime of robbery, but that he did commit an assault with intent to rob, the defendant shall not, by reason thereof, be entitled to be acquitted; but the jury shall be at liberty to return, as their verdict, that the defendant is guilty of an assault with intent to rob; and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for feloniously assaulting, with intent to rob; and no person so tried shall be liable to be afterwards prosecuted for the robbery, or for an assault with intent to commit the robbery for which he was so tried.

On the trial of an indictment for robbery, the jury may convict of an assault with intent to rob.

XI. If upon the trial of any person for any misdemeanor, it shall appear that the facts given in evidence amount in law to a felony, such person shall not, by reason thereof, be entitled to be acquitted of such misdemeanor; and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for felony, on the same facts, unless the Court, before which such trial may be had shall think fit in its discretion to discharge the jury from giving any verdict upon such trial, and to direct such person to be indicted for felony; in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanor.

Person tried for misdemeanor not to be acquitted, if the offence turn out to be felony, unless the Court so direct.

XII. If upon the trial of any person indicted for embezzlement as a clerk, servant or person employed for the purpose, or in the capacity of a clerk or servant, it shall be proved that he took the property in question in any such manner as to

Persons indicted for embezzlement as a

clerk not to be acquitted, if the offence turn out to be larceny, &c.

amount in law to larceny, he shall not, by reason thereof, be entitled to be acquitted; but the jury shall be at liberty to return, as their verdict, that such person is not guilty of embezzlement, but is guilty of simple larceny, or of larceny as a clerk, servant, or person employed for the purpose, or in the capacity of a clerk or servant, as the case may be; and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such larceny; and if upon the trial of any person indicted for larceny it shall be proved that he took the property in question in any such manner as to amount in law, to embezzlement, he shall not, by reason thereof, be entitled to be acquitted; but the jury shall be at liberty to return, as their verdict, that such person is not guilty of larceny, but is guilty of embezzlement; and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such embezzlement; and no person so tried for embezzlement or larceny shall be liable to be afterwards prosecuted for larceny or embezzlement upon the same facts.

Persons jointly and separately guilty of receiving, to be convicted.

XIII. If upon the trial of two or more persons indicted for jointly receiving any property, it shall be proved that one or more of such persons separately received any part of such property, it shall be lawful for the jury to convict upon such indictment such of the persons as shall be proved to have received any part of such property.

Separate accessaries, &c., may be included in same indictment, &c.

XIV. And whereas it frequently happens that the principal in a felony is not in custody or amenable to justice, although several accessaries to such felony or receivers at different times of stolen property, the subject of such felony may be in custody, or amenable to justice: For the prevention of several trials, be it enacted: That any number of accessaries or receivers may be charged with substantive felonies in the same indictment, notwithstanding the principal felon shall not be included in such indictment, or shall not be in custody or amenable to justice.

Several counts may be inserted in same indictment.

XV. It shall be lawful to insert several counts in the same indictment against the same person, for any number of distinct acts of stealing, not exceeding three, which may have been committed by him against the same person, within the space of six months from the first to the last of such acts, and to proceed thereon for all or any of them.

Where a single taking is charged, &c.

XVI. If, upon the trial of any indictment for larceny, it shall appear that the property alleged in such indictment to have been stolen at one time, was taken at different times, the prosecutor shall not, by reason thereof, be required to elect upon which taking he will proceed, unless it shall appear that

there were more than three takings, or that more than six months elapsed between the first and the last of such takings; and in either of such lastmentioned cases, the prosecutor shall be required to elect to proceed for such number of takings, not exceeding three, as appear to have taken place within the period of six months from the first to the last of such takings.

XVII. In every indictment in which it shall be necessary to make any averment as to any money or any treasury or bank note, it shall be sufficient to describe such money or notes simply as money, without specifying any particular coin or note; and such allegation, so far as regards the description of the property, shall be sustained by proof of any amount of coin or of any treasury or bank note, although the particular species of coin of which such amount was composed, or the particular nature of the note shall not be proved; and in cases of embezzlement, and obtaining money or treasury or bank notes by false pretences, by proof that the offender embezzled or obtained any piece of coin, or any note, or any portion of the value thereof, although such piece of coin or note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to any other person, and such part shall have been returned accordingly.

Coin and bank notes may be described simply as money.

XVIII. And whereas it is expedient to render prosecutions for perjury, and subornation of perjury, more easy and efficient: Be it enacted, That it shall and may be lawful for the Judge or Judges of any of the superior Courts of common law or equity, in case it shall appear to him or them that any person in any evidence given, or in any affidavit, deposition, examination, answer or other proceeding made or taken before him, has been guilty of wilful and corrupt perjury, to direct such person to be prosecuted for such perjury, in case there shall appear to him or them a reasonable cause for such prosecution, and to commit such person so directed to be prosecuted until the next term of the Supreme Court for the County within which such perjury was committed, unless such person shall enter into a recognizance with one or more surety or sureties, conditioned for the appearance of such person at such next term of the Supreme Court, and that he will surrender and take his trial and not depart the Court without leave; and to require any person he or they may think fit to enter into a recognizance conditioned to prosecute or give evidence against such person so directed to be prosecuted.

Judge may direct a person guilty of perjury in any evidence to be prosecuted.

XIX. In every indictment for perjury, or for unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously or corruptly taking, making, signing or subscribing any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient to set forth

In indictments for perjury the substance of the offence may be set forth.

the substance of the offence charged upon the defendant, and by what Court, or before whom the oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing was taken, made, signed or subscribed, without setting forth the bill, answer, information, indictment, declaration, or any part of any proceedings either in law or in equity, and without setting forth the commission or authority of the Court or person, before whom such offence was committed.

Indictments for subornation of perjury and other like offences simplified.

XX. In every indictment for subornation of perjury, or for corrupt bargaining or contracting with any person to commit wilful and corrupt perjury, or for inciting, causing or procuring any person unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously or corruptly to take, make, sign or subscribe any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing, it shall be sufficient, whenever such perjury or other offence shall have been actually committed, to allege the offence of the person who actually committed such perjury or other offence, in the manner hereinbefore mentioned, and then to allege, that the defendant unlawfully, wilfully and corruptly did cause and procure the said person, the said offence, in manner and form aforesaid, to do and commit; and wherever such perjury or other offence aforesaid shall not have been actually committed, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth or averring any of the matters or things hereinbefore rendered unnecessary to be set forth or averred, in the case of wilful and corrupt perjury.

What shall be deemed evidence on trials for perjury and subornation.

XXI. A certificate, containing the substance and effect only, omitting the formal part of the indictment and trial for any felony or misdemeanor, purporting to be signed by the clerk of the Court, or other officer having the custody of the records of the Court where such indictment was tried, or by the deputy of such clerk or other officer, for which certificate no fee shall be demanded or paid, shall, upon the trial of any indictment for perjury or subornation of perjury, be sufficient evidence of the trial of such indictment for felony or misdemeanor, without proof of the signature or official character of the person appearing to have signed the same.

Venue in the margin sufficient, except where local description is essential.

XXII. It shall not be necessary to state any *venue* in the body of any indictment, but the county named in the margin thereof shall be taken to be the *venue* of all the facts stated in the body of such indictment; provided, that in cases, where local description is or hereafter shall be required, such local description shall be given in the body of the indictment.

What defects

XXIII. No indictment for any offence shall be held insufficient for want of the averment of any matter unnecessary to

be proved, nor for the omission of the words "as appears by the record," or of the words "with force and arms," or of the words "against the peace," nor for the insertion of the words "against the form of the statutes," or *vice versa*, nor for that any person mentioned in the indictment is designated by a name of office, or other descriptive appellation, instead of his proper name, nor for omitting to state the time, at which the offence was committed, in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment, or on an impossible day, or on a day that never happened, nor for want of a proper or perfect *venue*, nor for want of a proper or formal conclusion, nor for want or imperfection in the addition of any defendant, nor for want of the statement of the value or price of any matter or thing, or the amount of damage, injury or spoil in any case, where the value, or price or the amount of damage, injury or spoil, is not of the essence of the offence.

shall not vitiate an indictment.

XXIV. Every objection to any indictment, for any formal defect apparent on the face thereof, shall be taken by demurrer, or motion to quash such indictment, before the jury shall be sworn, and not afterwards; and every Court, before which any such objections shall be taken for any formal defect, may, if it be thought necessary, cause the indictment to be forthwith amended in such particular, by some officer of the Court or other person, and thereupon the trial shall proceed, as if no such defect had appeared.

Formal objections to indictments shall be taken before jury are sworn.

XXV. No person prosecuted shall be entitled to traverse or postpone the trial of any indictment found against him; provided, that if the Court, upon the application of the person so indicted or otherwise, shall be of opinion, that he ought to be allowed a further time, either to prepare for his defence or otherwise, such Court may adjourn the trial of such person to the next subsequent session, upon such terms, as to bail or otherwise, as to such Court shall seem meet, and may respite the recognizances of the prosecutor and witnesses accordingly; in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent session, without entering into any fresh recognizance for that purpose.

Provision as to traversing indictments.

XXVI. In any plea of *autrefois convict* or *autrefois acquit*, it shall be sufficient for any defendant to state, that he has been lawfully convicted or acquitted, as the case may be, of the offence charged in the indictment.

Provision as to plea of *autrefois convict* or *autrefois acquit*.

XXVII. In the construction of this Act, the word "indictment" shall be understood to include information, inquisition and presentment, as well as indictment, and also any plea, replication, or other pleading, and any record; and the

Interpretation of terms used in this Act.

terms "finding of the indictment" shall be understood to include the taking of an inquisition, the exhibiting of an information, and the making a presentment; and the word "property" shall be understood to include goods, chattels, money, valuable securities, and every other matter or thing, whether real or personal, upon or with respect to which, any offence may be committed.

CAP. IX.

Repealed by 19
Vic., c. 21.

An Act to extend the elective franchise.

CAP. X.

Repealed by
19 Vic. c. 2.

An Act to alter and add to the Act regulating the retail of spirituous liquors.

CAP. XI.

See 6 Vic. c. 2.

An Act relating to the appointment of constables and fence viewers for Queen's County.

[Passed April 16, 1853.]

15 Vic., c. 10.

WHEREAS in the Act of the fifteenth year of the reign of Her present Majesty Queen Victoria, chapter the tenth, intituled "An Act to consolidate and amend the laws now in force relating to division fences," the power of the Grand Jury of Queen's County, in Hilary term of the Supreme Court of Judicature, and of the said Supreme Court, to appoint fence viewers, and which was possessed by them previous to the passing of the said recited Act, by virtue of the Acts thereby consolidated and repealed, was omitted to be continued; yet in the last Hilary term of the said Court preceding the passing of this Act, fence viewers for Queen's County were nominated and appointed in all respects as if no such omission had occurred, and it is therefore necessary that the said appointment should be confirmed, and provision made for the future nomination and appointment of fence viewers for the said County; and it is also advisable to regulate the mode of the appointment of constables for Queen's County more satisfactorily than has yet by law been done: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

When lists of
constables and
fence viewers
for Queen's
County to be
prepared.

I. The Grand Jury who shall be summoned to attend the Hilary term of the said Supreme Court in Queen's County, in every year, shall, and they are hereby authorized, at such term, to prepare lists of fit and proper persons to fill the

offices of constables and fence viewers, for the several towns and settlements in Queen's County, for the next ensuing year, which lists shall contain double the number of names, in each case, which the Grand jury shall think necessary to be appointed, and shall by them be submitted to the said Court, which shall strike out of the names contained in each list one half, and the remaining number shall be constables and fence viewers in the several towns and settlements aforesaid.

II. The appointments of constables and fence viewers made by the Grand jury of Queen's County and the said Supreme Court, at the last Hilary term thereof, before the passing of this Act, is hereby confirmed and rendered valid; and the persons so appointed constables and fence viewers shall continue in office until a fresh appointment shall be made under the provisions of this Act; and such fence viewers shall have and execute all the powers, authorities and duties given to or required to be possessed or performed by fence viewers under the provisions of the said recited Act, or any other Act of the General Assembly of Prince Edward Island, now in force, relating to fences or fence viewers, and all acts heretofore done by such persons so appointed to be constables and fence viewers for Queen's County, which, if their appointments had been regular, would have been legal and valid, are hereby confirmed and declared to be good and binding.

Former appointment of constables and fence viewers for Queen's County confirmed.

III. The provisions of the Act passed in the sixth year of the reign of her present Majesty Queen Victoria, chapter the second, intituled "An Act to compel persons appointed to the office of constables to serve as such," are hereby extended to all constables to be appointed under this Act, and to all vacancies requiring to be filled up in such appointments.

Extends provisions of the Act 6 Vic. c. 2, to all constables appointed under this Act.

IV. This Act shall go into operation immediately after the passing thereof.

When Act goes into operation.

CAP. XII.

An Act to amend the law of evidence.

[Passed April 16, 1853.]

WHEREAS it is expedient to amend the law of evidence in divers particulars: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

See 12 Vic. c. 4, and 19 Vic. c. 7.

I. Whenever any action or other legal proceeding shall henceforth be pending in the Supreme Court of Judicature of this Island, such Court and each of the Judges thereof may respectively, on application made for such purpose by either of the litigants, compel the opposite party to allow the party

Supreme Court authorized to compel inspection of documents in cases where Court of equity would grant discovery

making the application to inspect all documents in the custody, or under the control of such opposite party, relating to such action or other legal proceeding, and if necessary to take examined copies of the same, in all cases in which, previous to the passing of this Act, a discovery might have been obtained by filing a bill, or by any other proceeding, in a Court of equity, at the instance of the party so making application as aforesaid to the said Court or Judge.

State documents &c. provable by certified copies, &c.

II. All proclamations, treaties, and other acts of state, of Great Britain or Ireland, or of any foreign state, or of any British Colony, and all judgments, decrees, orders, and other judicial proceedings, of any Court of justice in Great Britain or Ireland, or in any foreign state, or in any British colony, and all affidavits, pleadings, and other legal documents, filed or deposited in any such Court, may be proved in any Court of justice in this Island, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence, either by examined copies, or by copies authenticated, as hereinafter mentioned: that is to say; if the documents sought to be proved be a proclamation, treaty, or other act of state, the authenticated copy to be admissible in evidence must purport to be sealed with the seal of the Foreign state, or Great Britain or Ireland, or British colony to which the original document belongs; and if the document sought to be proved be a judgment, decree, order, or other judicial proceeding of any foreign or colonial Court, or Court of Great Britain or Ireland, or an affidavit, pleading or other legal document, filed or deposited in any such Court, the authenticated copy to be admissible in evidence must purport either to be sealed with the seal of the foreign or colonial Court, or Court of Great Britain or Ireland, to which the original document belongs; or in the event of such Court having no seal, to be signed by the Judge, or if there be more than one Judge, by any one of the Judges of the said Court; and such Judge shall attach to his signature a statement in writing on the said copy, that the Court whereof he is a Judge has no seal; but if any of the aforesaid authenticated copies shall purport to be sealed or signed as hereinbefore respectively directed, the same shall respectively be admitted in evidence, in every case in which the original document could have been received in evidence, without any proof of the seal, where a seal is necessary, or of the signature, or of the truth of the statement attached thereto, where such signature and statement are necessary, or of the judicial character of the person appearing to have made such signature and statement.

Register of British vessels and certificates of

III. Every register of a vessel kept under any of the Acts of the Imperial Parliament, relating to the registry of British vessels, may be proved in any Court of Justice in this Island, or before any person having, by law or by consent of parties,

authority to hear, receive, and examine evidence, either by the production of the original, or by an examined copy thereof, or by a copy thereof purporting to be certified under the hand of the person having the charge of the original; and which person is hereby required to furnish such certified copy to any person applying at a reasonable time for the same, upon payment of the sum of two shillings and six pence; and every such register or copy of a register, and also every certificate of registry granted under any of the said Acts relating to the registry of British vessels, and purporting to be signed as required by law, shall be received in evidence in any Court of justice in this Island, or before any person having by law, or by consent of parties, authority to hear, receive, and examine evidence, as *prima facie* proof of all the matters contained or recited in such register, when the register or such copy thereof as aforesaid is produced, and of all the matters contained or recited in, or endorsed on such certificate of registry, when the said certificate is produced.

registry may be proved by production of original, or an examined or certified copy, &c.

IV. And whereas it is expedient, as far as possible, to reduce the expense attendant upon the proof of criminal proceedings: Be it enacted, that whenever in any proceeding whatsoever, it may be necessary to prove the trial and conviction or acquittal of any person charged with any indictable offence, it shall not be necessary to produce the record of the conviction or acquittal of such person, or a copy thereof, but it shall be sufficient that it be certified, or purport to be certified, under the hand of the Clerk of the Court, or other officer having the custody of the records of the Court where such conviction or acquittal took place, or by the deputy of such Clerk or other officer, that the paper produced is a copy of the record of the indictment, trial, conviction and judgment, or acquittal, as the case may be, omitting the formal parts thereof.

Where necessary to prove conviction or acquittal of person charged, not necessary to produce record, but same may be certified under hand of Clerk of the Court.

V. Whenever any book or other document is of such a public nature as to be admissible in evidence on its mere production from the proper custody, and no statute exists which renders its contents provable by means of a copy, any copy thereof or extract therefrom shall be admissible in evidence in any Court of Justice in this Island, or before any person now or hereafter having by law, or by consent of parties, authority to hear, receive and examine evidence, provided it be proved to be an examined copy or extract, or provided it purport to be signed and certified as a true copy or extract by the officer to whose custody the original is intrusted; and which officer is hereby required to furnish such certified copy or extract to any person applying at a reasonable time for the same, upon payment of a reasonable sum for the same, not exceeding one shilling for every folio of ninety words; save

Examined or certified copies of public documents, &c., admissible in evidence in this Island in certain cases.

and except all grants, mandamuses, copies of grants, and other documents, in any way affecting the titles to township lands in this Colony, not registered therein.

Officer giving false certificate, guilty of a misdemeanor.

VI. If any officer authorized or required by this Act to furnish any certified copies or extracts, shall wilfully certify any document as being a true copy or extract, knowing that the same is not a true copy or extract, as the case may be, he shall be guilty of a misdemeanor, and be liable, upon conviction, to imprisonment for any term not exceeding eighteen months.

Court, &c. may administer oaths to witnesses.

VII. Every Court, Judge, Justice, officer, commissioner, arbitrator, or other person now or hereafter having, by law, or by consent of parties, authority to hear, receive and examine evidence, is hereby empowered to administer an oath to all such witnesses, as are legally called before them respectively.

Persons forging seal, stamp, or signature of certain documents, guilty of felony.

VIII. If any person shall forge the seal, stamp, or signature of any document in this Act mentioned, or referred to, or shall tender in evidence any such document, with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or counterfeit, he shall be guilty of felony, and shall, upon conviction, be liable to imprisonment for any term not exceeding three years, nor less than one year, with hard labor; and whenever any such document shall have been admitted in evidence, by virtue of this Act, the Court, or the person who shall have admitted the same, may, at the request of any party against whom the same is so admitted in evidence, direct, that the same shall be impounded, and be kept in the custody of some officer of the Court, or other proper person, for such period, and subject to such conditions as to the said Court or person shall seem meet; and every person who shall be charged with committing any felony under this Act, may be dealt with, indicted and tried, and, if convicted, sentenced; and his offence may be laid and charged to have been committed in the county, district, or place in which he shall be apprehended, or be in custody; and every accessary before or after the fact to any such offence may be dealt with, indicted, tried, and, if convicted, sentenced; and his offence laid and charged to have been committed in any county, district, or place in which the principal offender may be tried.

Either party in a suit after plea, &c., may require opposite party to admit documents, &c., intended to be given in evidence.

IX. Either party in any civil action in the Supreme Court of Judicature of this Island, may, after plea pleaded, and a reasonable time before trial, give notice to the other in the form in the schedule hereunto annexed, marked (A), or to the like effect, of his intention to adduce in evidence certain written or printed documents; and unless the adverse party shall consent, by endorsement on such notice, within forty-eight hours to make the admission specified, the party requiring such admission may call on the party required, by summons, in the

usual form, to shew cause before a Judge why he should not consent to such admission ; or in case of refusal, be subject to pay the costs of proof ; and unless the party required shall expressly consent to make such admission, the Judge shall (if he think the application reasonable), make an order, that the costs of proving any document specified in the notice (which shall be proved at the trial to the satisfaction of the Judge or other presiding officer, certified by his endorsement thereon), shall be paid by the party so required, whatever may be the result of the cause : provided, that if the Judge shall think the application unreasonable, he shall endorse the summons accordingly : provided also, that the judge may give such time for inquiry or examination of the documents intended to be offered in evidence, and give such directions for the inspection and examination, and impose such terms upon the party requiring the admission, as he shall think fit ; and if the party required shall consent to the admission, the Judge shall order the same to be made ; but no costs of proving any written or printed document shall be allowed to any party who shall have adduced the same in evidence on any trial, unless he shall have given such notice as aforesaid, and the adverse party shall have refused or neglected to make such admission, or the Judge shall have endorsed upon the summons, that he does not think it reasonable to require it ; and the judge may make such order as he may think fit respecting the costs of the application, and the costs of the production and inspection ; and in the absence of a special order, the same shall be costs in the cause.

X. A copy of any grant of lands, or of any plan taken by any sworn surveyor, or of any proceedings in Her Majesty's Council, respecting titles of lands, certified by the Registrar of deeds and keeper of plans, Colonial Secretary, or clerk of the Council of this Island, or other proper officer, in whose custody the same may be, shall be received as evidence.

Certified copy
of grant of
land receivable
in evidence.

XI. So much of section one of the Act of the twelfth year of Her present Majesty, chapter four, as provides, that the said Act shall not render competent any party to any suit, action or proceeding, individually named in the record, or any lessor of the plaintiff or tenant of premises, sought to be recovered in ejectment, or the landlord, or other person in whose right any defendant in replevin may make cognizance, or any person, in whose immediate and individual behalf any action may be brought or defended, either wholly or in part, is hereby repealed.

Recited proviso
in section 1 of
12 Vic., c. 4,
repealed.

XII. On the trial of any issue joined, or of any matter or question, or on any inquiry arising in any suit, action or other proceeding, in any Court of Justice in this Island, or before

Parties to suits,
to be admissi-
ble as witnesses
therein.

any person having, by law, or by consent of parties, authority to hear, receive, and examine evidence therein, the parties thereto, and the persons in whose behalf any such suit, action, or other proceeding may be brought or defended, shall, except as hereinafter excepted, be competent and compellable to give evidence, either *viva voce* or by deposition, according to the practice of the Court, on behalf of either or any of the parties to the said suit, action or other proceeding.

No person charged with criminal offence to give evidence tending to criminate himself, &c.

XIII. Nothing herein contained shall render any person who, in any criminal proceeding, is charged with the commission of any indictable offence, or any offence punishable on summary conviction, competent or compellable to give evidence for or against himself or herself, or shall render any person compellable to answer any question tending to criminate himself or herself, or shall, in any criminal proceeding, render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband.

Not to apply to any action, &c., in certain cases.

XIV. Nothing herein contained shall apply to any action, suit, proceeding, or bill in any Court of common law, or in any ecclesiastical Court, or in any other Court in this Island, instituted in consequence of adultery, or to any action for breach of promise of marriage.

Nothing in this Act to be construed to repeal any provision of 6 Vis. c. 26.

XV. Nothing herein contained shall repeal any provision contained in chapter twenty-six of the statute passed in the Legislature of this Island, holden in the sixth year of the reign, of Her present Majesty Queen Victoria.

Any Judge, &c. may direct a person guilty of perjury to be prosecuted.

XVI. It shall and may be lawful for the Judges or Judge of the Supreme Court of Judicature, or Court of Chancery, or for any Court of Commissioners for the recovery of small debts, or for any Sheriff, or his lawful deputy, before whom any writ of inquiry from the Supreme Court of Judicature shall be executed, in case it shall appear to him or them, that any person has been guilty of wilful and corrupt perjury in any evidence given, or in any affidavit, deposition, examination, answer or other proceeding made or taken before him or them, to direct such person to be prosecuted for such perjury, in case there shall appear to him or them a reasonable cause for such prosecution, and to commit such person so directed to be prosecuted, until the next jury term of the Supreme Court of Judicature for the County within which such perjury was committed, unless such person shall enter into a recognizance, with one or more sufficient surety or sureties, conditioned for the appearance of such person at such next jury term of the Supreme Court; and that he will then surrender and take his trial, and not depart the Court without leave; and to require any person, he or they may think fit, to enter into a recogniz-

ance, conditioned to prosecute or give evidence against such person so directed to be prosecuted as aforesaid.

XVII. This Act shall come into operation on the first day of June in the present year.

When Act to go into operation.

SCHEDULE (A) to which this Act refers.

Prince Edward Island, } In the Supreme Court of Judicature.
County. }

A. B. vs. C. D.

Take notice, that the plaintiff or defendant in this cause, purposes to adduce in evidence the several documents hereunder specified, and that the same may be inspected by the defendant, plaintiff, his attorney or agent, at on between the hours of and and that the defendant or plaintiff will be required to admit, that such of the said documents as are specified to be originals were respectively written, signed or executed, as they purport respectively to to have been; that such as are specified as copies are true copies; and such documents as are stated to have been served, sent or delivered, were so served, sent or delivered respectively, saving all just exceptions to the admissibility of all such documents as evidence in this cause.

Form of notice to admit documents, &c., intended to be given in evidence in a suit.

Dated, &c.,

G. H., attorney for plaintiff or defendant.

To *E. F.*, attorney (or agent) for plaintiff or defendant.

[Here specify the documents, &c., required to be admitted.]

CAP. XIII.

An Act to enable the Government of this Island to take possession of lands, when required to erect lighthouses, and for other purposes connected with lights and beacons, and to pay compensation to the owners or occupiers thereof.

[Passed April 16, 1853.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, as follows:

I. Whenever the Government of this Island shall require any lands belonging to a private individual, for the purpose of erecting lighthouses, lights and beacons, or for a way or road thereto, or for any other purpose connected therewith, it shall be lawful for the Lieutenant Governor, by and with the advice

When lands belonging to a private individual are required to erect a lighthouse, &c.

and consent of Her Majesty's Executive Council, to nominate and appoint three commissioners, not being interested parties, who, having previously given thirty days' notice thereof by advertisement in the *Royal Gazette* newspaper of this Island, shall proceed to examine the land so required, and to lay off the same by metes and bounds, which they are hereby authorized to do, and they shall make, or cause to be made, a plan and description thereof, to be recorded in the office of the Registrar of deeds, as hereinafter mentioned.

Commissioners may agree with owner of land, as to amount of compensation to be paid therefor.

II. The said commissioners may make an agreement in writing with the proprietor of lands so taken for the amount of compensation to be paid to him as damages for the loss thereof, including the expense of fencing necessary, where the land required, or part of the same, is to be used as a road or way to any other piece of land required to erect a lighthouse upon, or for any other purposes connected with lights and beacons; and the same shall be laid before the Lieutenant Governor in Council, and, if approved of by him, shall be confirmed.

Proceedings to value lands, &c., where no agreement shall be made, or the same shall not be confirmed.

III. Where no agreement shall be made, or if the same shall not be confirmed, then the said commissioners shall, as soon as possible, submit to the Lieutenant Governor in Council a statement in writing of the appraised value of any lands so required, (which value they shall ascertain when first employed in examining and laying off the land as hereinbefore mentioned,) and of the damage which each owner or occupier thereof may sustain by the loss of the land, or any such expense of fencing, as in this Act referred to, and the said statement shall be verified on oath, to be sworn before any of Her Majesty's Justices of the Peace in this Island, and shall be in the form, or to some such purport and effect, as that contained in schedule (A) to this Act annexed; and in case the Lieutenant Governor in Council shall approve of such statement, he shall cause the plan and description of the land so required to be recorded in the office of the Registrar of deeds in this Island, and the same land shall thereupon become vested in fee simple absolutely in the Crown for such purposes; and the Lieutenant Governor in Council shall direct the amount or amounts of money set forth in such statement to be paid to the party or several parties entitled to receive the same, on application within fourteen days after the recording of the description and land, by warrant or warrants, on the Treasurer of this Island.

Owner to be notified, &c.

IV. If the Lieutenant Governor in Council do not approve of the statement of value or damages made by the said commissioners, he shall cause the same forthwith to be notified to the owner or occupier thereof.

V. The amount of the valuation shall be paid to the respective owners, proprietors or occupiers of the land so required, on their applying for the same; and it shall be lawful, upon tendering such payment, to enter thereon forthwith, and if any of them refuse to accept, or shall not appear to claim the same, then, and in such case, the same shall remain in the treasury of this Island, to their use when applied for: where a proprietor, owner or occupier is a minor, the valuation shall be paid to his guardian; and if he has no guardian, into the treasury, for his use when he comes of age: if the proprietor, owner or occupier is tenant in tail or for life, with remainders over or otherwise, the same shall be paid to him, the tenant in tail or for life; and where, from the mode in which any land may have been settled, devised or conveyed by any former owner or proprietor thereof, any difficulty exists in ascertaining in whom the absolute title to the land vests, where the present owner or occupant has not power to convey the same absolutely in fee simple, then payment of the appraised value thereof shall be made to such persons and in such manner, as the Commissioners, on being required to do so, shall point out and direct.

When amount of valuation to be paid to the owner of land, &c.

VI. If the owner, occupier or proprietor of any such land shall be dissatisfied with the amount awarded to be paid to him by the said Commissioners, under the authority of this Act, he shall be at liberty, within six weeks after the same shall have been notified to him, to enter an appeal against the same in the Supreme Court of Judicature of this Island; notice whereof shall be given in writing to the Attorney general, or in his absence, to the solicitor general; and such appeal shall be heard by the said Supreme Court at the term thereof, which shall be holden next after the entering of the appeal, in the County wherein the land is situate; provided such appeal is entered, and notice thereof given at least twenty-one days before the commencement of the term; but if the same is not given within such last mentioned period, then the hearing of such appeal shall not take place until the second term after the entering and giving notice thereof; and if, after hearing such appeal, it shall appear to the said Court that justice has not been done, it shall and may be lawful for the Court to order the Sheriff of the County to summon a jury of twelve persons; and the Sheriff shall accordingly, having given notice thereof to the appellant, summon a jury of twelve freeholders, who, after being sworn by the Sheriff, shall view the land, and ascertain the value thereof, and the damage the appellant may suffer by being deprived of the same, and they shall return their verdict in writing, under their hands and seals, to the Supreme Court, which shall be final and conclusive, and become a record of the Court.

If the owner or occupier of any such land shall be dissatisfied with the amount awarded, he may appeal to Supreme Court.

Should damages not amount to a greater sum than that fixed by Commissioners, expense of jury shall be borne by appellant.

If amount of verdict be greater than sum fixed, expenses of jury to be paid equally by both parties.

Fees, &c. of Commissioners.

Fees of Prothonotary, Sheriff, Jurors, &c. under this Act.

Suspending clause.

VII. Should the verdict of a jury, that may be summoned as aforesaid, after such an appraisalment of value or damages by the Commissioners, as aforesaid, shall have taken place, not amount to a greater sum than that originally fixed by the Commissioners, then and in every such case, the expense of the jury, so ordered, shall be borne by the party or parties appellant; and which expense may be levied by execution issued out of the Supreme Court on the record to be made up therein on the verdict, as in other cases of execution; that is to say, by *fieri facias*, statute execution, or *capias ad satisfaciendum*, at the option of the appellee or Government of this Island; and if the amount of the verdict shall be greater than the sum so originally fixed, then the expenses of the jury shall be paid equally by both parties, appellant and appellee, and the proportion to be paid by the appellant may be levied by execution, in same manner as in this section before set forth.

VIII. Each Commissioner, appointed by the Government to value any land as aforesaid, shall be entitled to the following sums:—

For every mile travelled, six pence.

For estimating value or damages, ten shillings.

For drawing and making the statement or return to the Governor in Council, each, three shillings and four pence.

The amount of fees to be paid to the Prothonotary, Sheriff, and Jurors, and other officers employed under this Act, shall be the same as is set forth and contained in the table of fees forming part of section twenty-eight of the Act of the fourteenth year of the reign of her present Majesty Queen Victoria, chapter one, intituled "An Act to regulate the laying out and altering of highways," and none other or greater.

IX. Nothing herein contained shall have any force or effect until Her Majesty's pleasure therein shall be known, and notification of Her Majesty's assent thereto shall have been published in the *Royal Gazette* newspaper of this Island.

. This Act received the royal assent on the 24th day of October, 1853, and signification thereof was published in the *Royal Gazette* newspaper of this Island, on the 21st day of November of the same year.

SCHEDULE (A) to which this Act refers.

Form of Oath to be annexed to the Return to be made to Government by the persons appointed to value the land and assess the amount or damages to be paid to the owner, occupier or proprietor of land required for the purposes of the within Act.

Form of oath to be annexed to return of value &c., made by Commissioners.

We *A. B.*, *C. D.* and *E. F.*, having carefully examined the damage, that the owners, occupiers or proprietors of the piece

of land required for [here state purpose for which same is required,] will sustain, according to their several and respective estates and interests therein, and the value thereof, do estimate the said value and damages, as follows:—

To (*J. K.*, as the case may be,) the sum or sums of pounds.
To (*L. M.*, as the case may be,) the sum of pounds.

Sworn before me,	}	<i>A. B.</i> ,
this		<i>C. D.</i> ,
day of		<i>E. F.</i>

CAP. XIV.

An Act relating to the mode of proceeding against lands on the several townships in Prince Edward Island, and the islands contiguous thereto, for the recovery of arrears of land assessment.

See 11 Vic. c. 7.

[Passed April 16, 1853.]

WHEREAS by the fourth section of the Act of the eleventh year of the reign of her present Majesty Queen Victoria, chapter seven, intituled "An Act for levying further an Assessment on all lands in this Colony, and for the encouragement of education," it is enacted, that all informations to be filed against any lands in arrear, as therein mentioned, should be against the same as in said Act classified; that is to say, that one information only should be filed against all the lands in arrear on each of the townships in this Island, and one information only against all lands in arrear on each island not included in any such township; and that all further proceedings which should or might be had or taken by virtue of said Act against any lands so in arrear, down to final judgment, inclusive, should follow the course of the said information against the said lands as therein classified: and by the second section of the Act of the twelfth year of the reign of her present Majesty Queen Victoria, chapter seven, intituled "An Act to explain and amend the present Act for the assessment of land, and the encouragement of education," after making some amendments of the said first recited Act, with reference to the mode of proceedings against lands in arrear of land assessment imposed thereby, it is enacted, "that the judgment to be given against such lands in arrear, and all future and other proceedings thereon or thereunder, should be given and conducted in the manner prescribed in the said Act of the eleventh year of the reign of her present Majesty Queen Victoria, chapter seven; and by the forty-seventh section of the Act passed in the fifteenth year of the reign of her present Majesty Queen Victoria, chapter thirteen, intituled "An Act for the encouragement of education, and to raise funds for

Preamble.

11 Vic. c. 7.

12 Vic. c. 7, s. 2.

11 Vic. c. 7.

15 Vic. c. 13,
47.

11 Vic. c. 7.

that purpose by imposing an additional assessment on land in this Island, and on real estate in Charlottetown and Common and Georgetown and Common," it is amongst other things enacted, that proceedings for the recovery of the tax or assessment thereby imposed on the several lands as thereinbefore mentioned, (which includes the said township lands and islands), should or might be concurrent and taken together with and in like manner as the proceedings for the recovery of the tax imposed by the said Act of the eleventh Victoria, chapter seven, on the same: and whereas it is advisable that one information only should be filed for each County against all the lands in arrear, on the several townships therein together, of the said taxes or assessments, or either of them, and one information only for each County against all the lands in arrear therein on the several islands together, belonging to such County not included in such townships, and not that a separate information should be filed, and judgment taken against each township or Island for the recovery of assessment in arrear, in respect of land therein respectively, as has of late been done, and which course is productive of unnecessary expense: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

One information only to be filed for each County against all the lands in arrear, &c.

Proceedings to final judgment to follow course of information against lands.

I. All informations which shall or may, after the passing of this Act, be filed against any lands on the townships in this Island, and the islands not included in such townships, in arrear of the taxes or assessments, or either of them, imposed thereon by the said Act of the eleventh year of the reign of her present Majesty Queen Victoria, chapter seven, and by the said Act of the fifteenth year of the reign of her present Majesty Queen Victoria, chapter thirteen, either together or separately, for the recovery of the same, shall be as follows; that is to say, one information and one only shall be filed for each County in this Island against all the lands in arrear on all the several townships therein together; and one information and one only shall be filed for each County in this Island against all the lands in arrear on all the several islands therein together, not included in such townships, that is to say—all lands in arrear on all the townships in any County in this Island shall be included in one information, and all the lands in arrear on all the Islands therein shall be included in one other information, and so with respect to the other Counties, and all the proceedings which shall or may be taken by virtue of this Act, or any of the Acts hereinbefore mentioned, against any such lands so in arrear, down to final judgment, shall follow the course of the said information against the said lands, that is to say: there shall be one judgment only on each information, and the costs thereon shall be made up, taxed and divided proportionably to the quantity of lands in arrear

on each township, amongst the several townships and islands included in any proceedings, in manner as pointed out in the said Act of the eleventh year of the reign of Her present Majesty Queen Victoria, chapter seven, save where amended or controlled by the fifth section of this Act; and all future and other proceedings thereupon or thereunder shall be given, and be conducted in the manner prescribed in the said hereinbefore mentioned Acts, or either of them.

II. The mode and forms of proceedings against the several lots and parts of lots in arrear of the taxes or assessments imposed by the said Acts hereinbefore in this Act mentioned, or either of them, in each of the towns in this Island, town lots and water lots inclusive, and in each of the royalties in this Island, pasture, common, and all other description of lots inclusive, shall remain unaltered, and be in manner as pointed out and declared in and by the said Act of the eleventh Victoria, chapter seven, twelfth Victoria, chapter seven, and fifteenth Victoria, chapter thirteen, or either of them, and shall not in any way be affected or changed by any of the provisions, recitals or declarations in this Act contained, relative to proceedings against the lands in arrear on the townships in this Island and islands contiguous thereto, as aforesaid.

Forms, &c., of proceedings against lots, &c. in the several towns, commons and royalties, to be as heretofore.

III. And to prevent any doubts or difficulties which may arise from the wording of the said Act of the eleventh year of the reign of her present Majesty Queen Victoria, chapter seven, as amended or explained by this Act, be it further enacted, by the authority aforesaid, that all proceedings heretofore had or taken under the said Acts hereinbefore mentioned, or either of them, against lands in arrear on any of the townships in this Island, or islands not being part of said townships, shall be, and the same are hereby confirmed, and shall be taken to be good and valid, although the informations may have been filed against each township or island separately, and the subsequent proceedings taken in the same course; any construction of law, or any thing in this or either of the Acts hereinbefore mentioned contained, to the contrary notwithstanding.

All proceedings taken under recited Acts for recovery of arrears of land assessment confirmed.

IV. Any person owning or occupying land in this Island within any town, common or royalty, or on any township or island, or reserved lands, against which proceedings have been taken for the recovery of arrears of assessment due thereon, shall be entitled to stay the proceedings against the land owned or occupied by him, at any time before the day of sale, by paying or tendering payment of a proper proportion of the costs and expenses of the proceedings up to the day of payment or tender, according to the extent of his land, and also the tax or assessment due thereon, the same to be paid to the

Owner of land entitled to stay proceedings on tendering amount of tax and proportion of costs, &c.

Sheriff after execution issued, or if before execution, to the officer in whose hands the proceedings may be, or who, at the time should properly receive the same; and the Sheriff or other officer having charge of the proceedings on application made to him by any such person as aforesaid, desiring to redeem his land, shall give to the applicant the particulars of the amount to be paid by him.

Amount of costs to be taxed where lands included in any information shall not exceed 500 acres.

V. Where the lands comprised in any one information filed under this Act, or any of the said recited Acts, for the recovery of arrears of tax or assessment due thereon, shall not exceed five hundred acres, then and in such case the costs to be taxed thereon shall not exceed the sum of three pounds, including the Attorney general's, the Prothonotary's and Judge's fees, and other costs of Court, any thing in this or any other Act of the General Assembly of this Island, to the contrary notwithstanding.

Fees to be taken by Sheriff, &c., under this Act.

VI. In proceedings to be had or taken under this or any of the said recited Acts, the fees and allowances hereafter to be paid or demanded by the Sheriff, under Sheriff or Coroner, shall not be greater than are hereinafter set forth, that is to say:—

Sheriff or Coroner, &c., for every deed, ten shillings.

For every additional tract of land on the same township, described and conveyed in the same deed, five shillings.

For every additional town, common, water or pasture lot, beyond the first described, and conveyed in the one deed, five shillings.

For making levy under execution, two shillings and six pence.

Poundage, five *per centum* on amount of levy; travelling per mile to be computed from the courthouse in the county where the lands are situate to the place where the levy is made, and back again; but in no case shall any more miles be charged for than he can make it to appear he has actually travelled, and only one journey to be allowed, four pence.

If it be necessary for the Sheriff or other officer to go to Charlottetown, to search the land assessment books in the Treasurer's office, he shall be allowed to charge for mileage from his place of residence to Charlottetown, and back again, to make such search, at the same rate as before, that is to say, each mile (but only one journey to be allowed), for all lands in arrear in the county, four pence.

Printer's fees, for advertising, &c., as heretofore accustomed.

Fees to Sheriff to be in lieu of those allowed by former Acts.

VII. The foregoing allowances and fees to the Sheriff, under Sheriff or Coroner, shall be taken in lieu of those heretofore allowed by any of the said recited Acts, or any other Act of the General Assembly of this Island, now in force.

CAP. XV.

An Act relating to the packet service between Bedeque and Shediac.

See 15 Vic. c. 6.

[Passed April 16, 1853.]

WHEREAS the licensee of the Government packet, established between Bedeque, in this Island, and Shediac, in New Brunswick, under and by virtue of the Act passed in the fifteenth year of the reign of Her present Majesty, intituled "An Act to facilitate the intercourse between this Island and the Provinces of Nova Scotia and New Brunswick," hath lately signified to the Government of this Island his willingness to surrender and cancel his license, and to be released from his contract in respect thereof: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

I. It shall be lawful for the Lieutenant Governor, by and with the advice and consent of Her Majesty's Executive Council, to take a surrender of the license granted under the said Act to run a packet between Bedeque and Shediac from the present holder thereof, and to cancel the same, and to discharge the licensee from the conditions thereof, and to call for new tenders for running such a packet between the said ports, and to grant a license therefor from time to time, when required, in all respects subject to and in accordance with the provisions of the said recited Act in relation thereto, or regulating the same.

Surrender of license to run packet between Bedeque and Shediac, under 15 Vic. c. 6, permitted to be taken.

II. There shall be granted, during the continuance of the said recited Act, and paid out of the public treasury of this Island, by warrant, under the hand and seal of the Lieutenant Governor, to the person who shall be licensed to run a sailing packet between Bedeque and Shediac aforesaid, an annual sum, not exceeding thirty pounds, during the continuance of his license; the one half of which payment shall be made on the first Thursday in August, and the remainder at the closing of the navigation in each year: provided always, that the licensee, before any such payments be made, shall satisfy the Lieutenant Governor in Council that he has fully complied with the conditions of his license.

The sum of £30 per annum to be paid to the person who shall be licensed to run said packet.

III. The grant of eighty pounds annually to the person licensed to run the said packet between Bedeque and Shediac aforesaid, given by the third section of the said recited Act of the fifteenth Victoria, chapter sixth, shall be, and the same is hereby repealed.

The former grant of £80 per annum for such packet repealed.

CAP. XVI.

Repealed by 17 Vic. c. 4. An Act to incorporate the Newfoundland and Prince Edward Island Electric Telegraph Company.

CAP. XVII.

Repealed by 18 Vic. c. 13. An Act to amend the Act regulating the public wharf at Georgetown, and other wharfs.

CAP. XVIII.

Amended by 20 Vic. c. 20, and 23 Vic. c. 21; and amount of loan extended by 23 Vic. c. 25. An Act for the purchase of lands on behalf of the Government of Prince Edward Island, and to regulate the sale and management thereof, and for other purposes therein mentioned.

[Passed April 16, 1853.]

Preamble.

WHEREAS it would conduce much to the prosperity of this Island if the tenantry thereof were enabled to convert their leasehold tenures into freehold estates, at an easy rate, and on fair terms, and the wilderness and unoccupied lands were made more readily attainable for settlers than at present is the case: and whereas, in order to effectuate such desirable purpose, it will be necessary to purchase the fee simple and reversion of the said lands from the proprietors thereof, and to sell the same to the tenants now occupying the same, or otherwise, as the circumstances of the case may require, and from time to time, when required, and as purchases may be made to raise sufficient sums of money therefor, on the credit of the Government, and to regulate the mode of raising and applying such money and the repayments thereof, and of selling and managing lands so to be purchased: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

Lieutenant Governor to advertise for tenders for the sale of township and other lands to the Government.

I. That after this Act shall go into operation, it shall be lawful for the Lieutenant Governor, by and with the advice and consent of Her Majesty's Executive Council of this Island, from time to time, to cause advertisements to be published in the *Royal Gazette* newspaper of this Island, calling for tenders for the sale of township and other lands to the Government of this Island, such tenders to be required to contain full particulars and descriptions of the lands offered for sale, and to be accompanied by plans and surveys thereof, and abstracts of title, and to state the number of acres offered for sale, and the quantity tenanted and untenanted, wilderness

and improved lands, the names and tenures of the different tenants or occupants, rents, and other sums of money payable therefor, mortgages and other incumbrances (if any) affecting the lands offered for sale, and all other necessary information respecting the same.

II. If, after the receipt and consideration of any such tenders as aforesaid, the Lieutenant Governor, with the advice aforesaid, shall deem it advisable to treat with any of the parties tendering for the purchase of lands tendered for sale, he may, with the like advice and consent, appoint a fit and proper person to negotiate the same, and all future tenders to be made, and to hold, manage, and dispose of the lands to be purchased under this Act, for and on behalf of the Government of this Island, for the purposes, and subject to such rules, regulations, and restrictions as are hereinafter set forth and contained concerning the same; and such person so to be appointed as in this section mentioned, and his successors in office, shall have the name and style of "The Commissioner of public lands," and as such, he and his successors in office, appointed as hereinafter mentioned, shall, for the purpose of holding lands, and doing other necessary acts and things under this Act, have perpetual succession, and a seal peculiar to the office.

After receipt of any such tender, Lt. Governor may appoint a person to negotiate same and future tenders, &c.;

who shall be styled "The Commissioner of Public Lands."

III. No tender for the sale of any less quantity of land than one thousand acres by any person, or wherein the aggregate price of the lands offered for sale, cultivated and uncultivated together, shall exceed the sum of seven shillings and six pence, of lawful money of this Island, *per* acre, shall be entertained or accepted.

No tender to be received for the sale of less than 1000 acres, &c.

IV. It shall be lawful for the Lieutenant Governor, by and with the advice and consent of Her Majesty's Executive Council, from time to time to displace any person so appointed "The Commissioner of public lands," and to appoint another in his place, and in case of any vacancy occurring from death, resignation, removal, or otherwise, to appoint another person to fill up such vacancy.

Lt. Governor may displace Commissioner, &c.

V. It shall be the duty of such "The Commissioner of public lands," from time to time, when any such tender for the sale of lands shall be referred to him by the Lieutenant Governor in Council, to examine into the same, and the descriptions and particulars thereof, and to investigate, or cause to be investigated, the title of such lands, and he shall make a report of the result of such examination and investigation to the Government; and if the Lieutenant Governor, by and with the advice and consent of Her Majesty's Executive Council, shall, after receiving such report, approve of a purchase being made, and such approval shall have been duly notified

Duty of Commissioner.

In what cases
Commissioner
authorized to
purchase lands
tendered.

Purposes, &c.
for which lands
are to be held
by Commission-
er.

to "The Commissioner of public lands," in writing, under the hand and seal of the Lieutenant Governor, directed to him, then "The Commissioner of public lands" shall be, and he is in such case hereby authorized and empowered, on behalf of the Government of this Island, to contract for and purchase the lands tendered for sale, and to enter into all necessary agreements therefor, in writing or otherwise, and to take deeds and conveyances thereof to himself and his successors in office, in trust to, and for the intents and purposes set forth in this Act, and in the form or to the effect in the schedule (A) to this Act contained and set forth, or in any other form which he may think fit, or the circumstances of each case may render necessary or advisable; and all such lands when so purchased and conveyed by and to the said "The Commissioner of public lands," under this Act, shall be held by him for such purposes, and subject to such powers, provisions, regulations and authorities, in every respect, as are set forth, contained and declared in and by this Act, concerning the same; and such deeds or conveyances shall contain all covenants usually given in such cases by the parties executing the same, according to the interests which the parties conveying have in the lands conveyed, or the capacity in which they hold or convey them, for assuring the title and peaceable possession of the same to "The Commissioner of Public Lands," and his successors in office, as aforesaid, in trust to, and for the intents and purposes set forth in this Act; and such deeds or conveyances shall be good and valid in law and equity to vest the legal estate and fee simple, equity of redemption, reversionary or other interest, of the party conveying, according to the tenure and nature of the estate purchased, rights of entry for conditions broken, and all other rights of entry, in the said "The Commissioner of public lands," and his successors in office, subject only to the provisions and directions of this Act, without any entry made thereon or possession given; any law, custom or usage to the contrary thereof, in any wise notwithstanding.

Commissioners
may be ap-
pointed to in-
spect lands of-
fered for sale,
and report
thereon.

VI. And in order to prevent any imposition being practised on the Government of this Island, it shall be lawful for the Lieutenant Governor, by and with the advice and consent of Her Majesty's Executive Council, if it shall be deemed necessary, to appoint one or more Commissioners, (but not to exceed three,) to examine and inspect lands offered for sale, who shall, after a careful examination and inspection, make a report thereof to the Lieutenant Governor and Council, for their guidance; and such Commissioners shall be paid the sum of four pence each for every mile necessarily travelled by them in the performance of such their duties, and twenty shillings each *per diem* for each day they are necessarily absent on such inspection.

VII. In case of dispute, as to how many miles have been necessarily travelled, or days necessarily occupied by any such commissioners in making any such inspection, as in the last preceding section of this Act mentioned, the same shall be decided by the Lieutenant Governor in Council, whose decision and order therein made shall be conclusive.

In cases of dispute as to such allowance, same to be decided by Lt. Governor in Council.

VIII. Where any lands tendered for sale under this Act shall be subject to mortgages, or other incumbrances, the period for the payment of which has not expired, the same may be purchased, and a conveyance thereof taken, subject thereto; and the Treasurer in such cases shall, and he is hereby authorized, out of moneys in his hands arising under this Act from time to time, to pay the interest moneys accruing due on such mortgages or incumbrances, and also the principal moneys of the same, when they become due, on the mortgagee or other incumbrancer giving a proper receipt therefor, or executing a release or discharge of his mortgage, incumbrance, claim or title, to "the Commissioner of public lands," and his successors in office, on behalf of the Government of this Island; and, as in other cases of conveyance under this Act, and at the time of making a purchase of any lands under this Act, if the same are taken subject to any mortgages or other incumbrances, "the Commissioner of public lands" shall be, and he is hereby empowered, to enter into, negotiate and make, with the holders of such mortgages or incumbrances, all such deeds and agreements respecting the same, or the payment and redemption thereof, as he may deem to be necessary and proper, subject to the approval of the Lieutenant Governor in Council, sufficient proof of which shall be the signature of the Lieutenant Governor on any such deed or agreement.

Lands may be purchased, subject to mortgages, &c.

IX. After each purchase of lands effected under this Act, and conveyance taken, it shall be the duty of "the Commissioner of public lands," within three months, to make a report and return of the lands purchased, (for each township, a separate report and return); designating particularly the quality, nature, description and position thereof, and arranging the same into classes; and it shall be lawful for, and the duty of the Lieutenant Governor, by and with the advice and consent of Her Majesty's Executive Council, thereupon to fix upon and determine the price to be charged for the sale of each class and description of land; the same to be regulated so that a sufficient price be charged in the aggregate to cover all costs, charges and expenses of the purchase, transfer, survey and management of the lands—the purchase money and interest thereon, loss to the general revenue from decrease in the land tax, on account of lands purchased under this Act, the salary of "the Commissioner of public lands," and all other expenses attendant upon the working of this Act—it being

Commissioner, within three months after purchase of lands, to make report, &c., respecting same.

intended that this Act shall, if possible, be self-sustaining, and that all expenses and outlays shall be paid out of moneys arising from the sales and rents of lands purchased hereunder, and that the purchase moneys and interest should also be repaid out of the same fund, without any resort to the general revenue, if it can possibly be avoided; but that this object being attained, the lands shall be disposed of to the tenants and other persons desirous of becoming purchasers, at as low a rate as possible.

Commissioner, after the purchase of any lands, to advertise the same for sale.

X. After the purchase of any lands aforesaid, "the Commissioner of public lands," shall advertise the same, and give notice in the *Royal Gazette* newspaper, published in this Island, briefly and succinctly therein specifying and describing the lands so purchased, and the extent, boundaries and situation thereof, and notifying the tenants and occupiers to come forward at such time and place as shall therein be particularly specified, and to produce their deeds, documents, receipts, vouchers, titles and agreements, if they have any, and state whether they are able and willing to purchase their several locations, (which advertisements shall from time to time be continued as "the Commissioner of public lands" shall think proper and necessary), and any tenant who, by the production of any document or proof of any fact, shall satisfy "the Commissioner of public lands" of his claim from occupation or otherwise, to purchase any particular location or tract, and shall consent to do so at the price fixed therefor, as hereinbefore mentioned, and who shall, within six months after he shall so have come forward, or such further time as "the Commissioner of public lands" shall appoint, pay twenty *per cent.* of the purchase money, and also, if "the Commissioner of public lands" shall require it, the sum of five shillings for the survey and description of his location or piece of land, which he claims to purchase, he shall be entitled to a conveyance thereof, in manner and form as hereinafter mentioned, subject to such conditions and reservations as may be deemed necessary, on his also paying to the said "the Commissioner of public lands" for preparing the conveyance and duplicate thereof, the further sum of five shillings, and no more.

Commissioner may bid for lands sold by the Sheriff for nonpayment of land assessment.

XI. It shall be lawful for "the Commissioner of public lands," if he deem it advisable, to attend at the sales of lands sold by the Sheriffs of the various counties in this Island, for the nonpayment of land assessment, or any other public tax imposed thereon by any statute or statutes of the General Assembly of this Island; and at such sales to bid for, and if need be, to purchase the same, and to take a conveyance thereof from the Sheriff making the sale, to himself and his successors in office, upon the same trusts, and for the same purposes as in other cases of lands purchased by him under this Act; and such

lands, so purchased under this section, shall be managed, sold, and disposed of, in the same way as other lands held by "the Commissioner of public lands" hereunder, and shall, in all respects, be subject to the provisions of this Act; but in no case, shall the price bid by "the Commissioner of public lands" for such lands, at such Sheriff's sales, exceed the amount of the tax and expenses for which the sale is made, by any greater sum than twenty shillings; and the same equity of redemption shall be open to the former owner of any lands purchased under this section by "the Commissioner of public lands," as in other cases of purchase by private individuals, at such sales as aforesaid.

Limit of price to be bid by Commissioner at such sales.

XII. In order to pay the price of lands purchased under this Act, and any incumbrances or mortgages affecting the same, and interest accruing due thereon, as aforesaid, and all expenses incurred under this Act, where sufficient moneys shall not be in the Treasurer's hands, under this Act or otherwise, to defray the same, it shall be lawful for the Lieutenant Governor, by and with the advice of Her Majesty's Executive Council, from and after the time when this Act shall go into operation, from time to time, as occasion may require, to order a loan account under this Act to be opened in the treasury of this Island, and to authorize and direct the Treasurer to borrow and receive from any person or persons, bodies corporate or politic, and in such sums and amounts as may be from time to time required, and may be practicable and convenient, a loan or loans of money, not exceeding in the aggregate thirty thousand pounds* of lawful current money of this Island, including any amount which may possibly be required to pay off outstanding debts, mortgages and incumbrances affecting any lands purchased hereunder.

Lt. Governor, &c., authorised to raise a loan not exceeding £30,000 for purposes of this Act.

XIII. All sums of money which from time to time shall be raised and borrowed under the provisions of this Act, shall be received by the Treasurer of this Island for the time being, who shall, and he is hereby authorized to cause and direct any number of debentures to be made out for any such sum or sums of money, not exceeding in the whole the said sum of thirty thousand pounds, as any person or persons, bodies corporate or politic, shall agree to advance on the credit of the said debentures; which debentures shall be prepared and made out in such method and form as Her Majesty's Treasurer shall think most safe and convenient, and be signed by him, by the Colonial Secretary, and also by the Lieutenant Governor of this Island, and shall be made payable at such period, and for such sums, and at such rate of interest, not exceeding five pounds *per centum, per annum*, as shall be found most advisable.

All sums borrowed to be received by the Treasurer, and debentures issued for the same.

* The Act of the 23 Vic., c. 25, authorises the loan of an additional sum of £10,000, subject to the rules and conditions prescribed in this Act.

Interest on debentures to be demandable half yearly.

XIV. The interest growing due on debentures issued under this Act, shall and may be demandable in half yearly periods, computed from the date thereof, and shall and may be paid on demand by the Treasurer of this Island for the time being, who shall take care to take a full and proper receipt therefor from the parties respectively, and have the same endorsed on each debenture at the time of payment thereof, or receive from or on account of the holders thereof such a full and unmistakable discharge therefor as shall prevent the possibility of the same being again legally demandable, and in such form as the Treasurer shall think advisable; and such debentures as shall from time to time be paid off, shall be cancelled and made void by the Treasurer.

When debentures become due, according to the terms thereof, Treasurer to pay same in succession, with interest, &c.

XV. When the said debentures or any of them shall respectively become due, according to the terms thereof, it shall be lawful for and the duty of the Treasurer of this Island to pay off the same, with interest, out of moneys being in his hands, arising under this Act, or otherwise, in their proper order and succession, according to priority of date; and the payment of the principal moneys of all warrants and other Government securities, save the debentures issued under the Act of the fourteenth Victoria, chapter twenty, (which shall have precedence over the debentures issued under this Act, so far only, however, as the general revenue is concerned), shall, when necessary, from time to time, be postponed, but bearing interest, so that the debentures issued under this Act, as the same respectively become due, according to the terms thereof, may be paid off as nearly as possible on the day on which they become due, as aforesaid; and the Treasurer shall, from time to time, when prepared to pay off any debentures so becoming due, cause a notice to be inserted in the *Royal Gazette* newspaper, requiring the holders of the said debentures to present the same for payment, according to this Act; and if after insertion of the said notice for one month, any debentures then payable shall remain out for more than one month, interest shall cease, and be no further payable in respect to the time which may elapse before the expiration of the said last one month and their presentment for payment; provided also, that it shall be lawful for the Treasurer of this Island, and he is hereby authorized, out of moneys which shall from time to time be in his hands, as hereinafter mentioned, arising from the sales or other disposition of lands under this Act, or the rents and profits thereof, when the same shall not be required for the payment of the interest on the said debentures, or mortgages and incumbrances affecting any lands purchased, or for any of the purposes of this Act, or to defray any expenses, charges, or salaries incurred or payable thereunder, from time to time, to pay off in succession the debentures issued under this Act, in such manner and at such times as he thinks

Treasurer, in certain cases, may pay off debentures before they become due by the terms thereof.

proper and convenient, even although the principal moneys of such debentures shall not have become due, according to the terms thereof; but in case of such payment being intended to be made before the said debentures have so become due, then the Treasurer must also cause a notice to be inserted in the *Royal Gazette* newspaper requiring the holders of the debentures to present the same for payment according to this Act, and such notice shall be inserted for three months; and on all debentures so called in, as in this section mentioned, which shall remain out for more than three months from the first publication of such notice, all interest after the end of the said last three months shall cease, and be no further payable in respect to the time which may elapse between the expiration of the said three months and the presentment for payment.

XVI. Also, if at any time after this Act shall go into operation all the treasury warrants and other Government securities, and the debentures issued under the fourteenth Victoria, chapter twenty, shall be paid off, the Lieutenant Governor in Council may, even before the debentures issued under this Act shall become due, according to the terms thereof, order the Treasurer to apply any surplus moneys which from time to time may be in the treasury, to the payment thereof; and the Treasurer shall, according to such order, apply the said surplus moneys, or so much thereof as shall be specified in the order, to the payment of the debentures issued under this Act, in succession, but subject to the same provisions as in the last preceding section of this Act contained, with respect to giving three months' previous notice of such payment, and the period during which interest shall be payable after such notice, and the time at which it shall cease to be payable thereon: provided always, that in any case, where the party or parties entitled to the money payable in respect of any debentures issued under this Act, and called in as hereinbefore provided for, shall consent to receive the same before the expiration of any notice required by this Act, or without any such previous notice, it shall be lawful for the Treasurer, and he is hereby authorized, to pay the same at once, with interest to the day of payment.

Governor in Council, before debentures become due, may order surplus moneys in Treasury to be applied to payment of same.

Proviso.

XVII. The moneys so to be raised shall be applied to the payment of the purchase money of lands purchased by "the Commissioner of public lands" under this Act, and also of mortgages and other incumbrances affecting the same, and interest thereon as aforesaid, and other purposes of this Act; and the person selling the lands, or receiving payment on account of any mortgages or incumbrances may, if he think fit, receive debentures in payment.

Purposes to which moneys raised under this Act are to be applied.

XVIII. When an agreement for the purchase of lands

When an agreement to purchase lands is perfected, &c., the Commissioner, with the concurrence of the Treasurer, shall appoint a day for execution of the deeds, &c.

Consideration money to be paid to vender by Treasurer.

under this Act shall have been perfected, and conveyances, and other necessary deeds, documents, surveys, and other papers are prepared and ready for execution and delivery, and the Treasurer shall have in his hands moneys or debentures under this Act, or otherwise, of sufficient amount to pay the price of the lands, or so much thereof as may be required, "the Commissioner of public lands" shall, with the concurrence of the Treasurer, appoint a day and time for the execution and delivery of the deeds and conveyances, and of all books, deeds, surveys, plans, documents and papers connected with the lands to be conveyed, or forming part of the title thereof; and the said "the Commissioner of public lands," with the vender, shall, on the day and time so appointed, attend in the Treasurer's office, in the Colonial Building, in Charlottetown, and the necessary deeds of conveyances, and other deeds, books, plans, surveys, documents and papers, shall be then and there executed and delivered over to "the Commissioner of public lands," who shall retain the same in his custody; and the price or consideration money of the lands conveyed shall be then and there paid to the vender by the Treasurer, who shall receive a certificate acknowledging the same, in form in schedule (B), to this Act, signed by the vender and "the Commissioner of public lands," and the deeds of conveyance to "the Commissioner of public lands," and other necessary deeds and documents relating to the lands purchased, shall be recorded in the office of the Registrar of deeds, in Charlottetown, without charge.

Amount of debenture.

XIX. No debenture under this Act shall be issued securing any greater principal sum than one hundred pounds, or less than fifty pounds.

Security for repayment of moneys borrowed.

XX. For the repayment of all sums of money borrowed under this Act, and the interest thereon, and for the payment of all sums contracted to be paid under this Act, and expenses incurred thereunder, the moneys arising from the sale, rents, and profits of lands purchased thereunder, and paid into the Treasury, shall, in the first instance be pledged and rendered liable, and the other public funds, moneys, and securities of this Island shall be, and the same are hereby in the next place pledged and rendered liable.

Duty of Treasurer.

XXI. The Treasurer shall keep a separate account of all moneys borrowed, paid, and repaid by him under this Act, of debentures issued, of moneys received or paid by him from or to "the Commissioner of public lands," and all other transactions in his office under this Act, and shall lay the same, once in each month, before the Lieutenant Governor and Council, and annually before each branch of the Legislature, during the first week of its session.

XXII. All sums of money and fees paid by any person purchasing lands under this Act from "the Commissioner of public lands," on account of the purchase money thereof, or for preparing the conveyance or duplicate thereof, or otherwise, where required by this Act, shall be paid to "the Commissioner of public lands," who shall enter the particulars of each payment in his books, and give the person making the payment such certificate, acknowledging the same on his part, by endorsement on the back of the deed, or otherwise, as the circumstances of the case may require; and the said "the Commissioner of public lands," at the times and in manner as hereinafter mentioned, shall pay over to the Treasurer of this Island all such sums of money and fees so paid to him as aforesaid, to and for the purposes of this Act, and the use of the Government of this Island, or otherwise, as hereinafter to be provided for by any Act of the General Assembly of this Island.

All sums of money, fees, &c., paid by persons purchasing lands, to be paid to the Commissioner, &c.

XXIII. Where lands are sold by "the Commissioner of public lands" under this Act, and the whole of the purchase money is paid at once, "the Commissioner of public lands," on receiving such payment, and of all other fees and accounts chargeable under this Act, shall execute and deliver to the purchaser a deed of conveyance thereof, in the form or to the effect set forth in schedule (C) to this Act; but if only part of the purchase money be paid, then the said deed shall be in the form or to the effect set forth in schedule (D), altered where necessary to meet the circumstances of any particular case; and on such last mentioned deed of conveyance there shall be endorsed a memorandum or defeasance, specifying the amount remaining unpaid, and when and how payable, in form as set forth in schedule (E), also varied where necessary to meet the circumstances of the case; and the amount so specified as unpaid, with interest (if the same be charged), as therein mentioned, shall be, and the same is hereby declared to be a specific lien and charge on the land described in the deed for which payment is due, superior to and having priority over every other lien or charge on the said land, created by the purchaser, or any claiming by, from, through, under, or in trust for him, whether before or after the date of the deed, rights of dower, or otherwise, and payment thereof shall be enforced from time to time, in manner as hereinafter mentioned.

Form of conveyance of land sold by Commissioner where all the purchase money, &c., is paid at once.

XXIV. "The Commissioner of public lands" shall cause duplicate copies of all deeds of conveyance executed by him under this Act, with any memorandum or defeasance relating to the payment of the purchase money endorsed thereon, as aforesaid, to be made and executed, and he shall cause the purchaser to execute the same, and by endorsement thereon

Duplicate copies of deeds of conveyance, &c., from the commissioner, to be executed, &c.

to declare it to be a true copy of the original deed of conveyance; and every such duplicate copy of any deed shall be deposited by "the Commissioner of public lands" in his office, and remain of record therein.

The original deed and the duplicate copy thereof to be evidence in all actions.

XXV. The original deed of conveyance, and also the duplicate copy thereof, executed as aforesaid, and attested by "the Commissioner of public lands," shall be evidence in all Courts in all actions wherein the title of the lands under this Act, or those claiming under them shall come in question, or wherein any proceedings shall be taken under this Act for the recovery of the purchase moneys due thereon, with interest, and in all other cases, wherein it shall become necessary to give such deeds in evidence.

Where the tenants or occupiers of lands neglect or refuse to purchase, Commissioner, &c., may sell the same.

XXVI. Where the tenants or occupiers of lands vested in "the Commissioner of public lands" under this Act, when called upon to come forward and purchase the same, as in the tenth section of this Act pointed out, shall neglect or refuse so to do, or to comply with any other requisites of this Act, or where any such lands shall be in a wilderness state, or in case of improved farms, mills, or other valuable properties, if the same shall at any time become vacant or unoccupied, or shall be surrendered to the said "the Commissioner of public lands," then, and in all such cases as in this section mentioned, the said "the Commissioner of public lands" shall have power and authority (subject, nevertheless, to the the approval of the Lieutenant Governor in Council, as hereinafter mentioned), from time to time, as he may find opportunity or a fitting occasion, absolutely to sell and dispose of the same, in parcels not exceeding three hundred acres in any one township to any one person, and either by public auction or private contract, and subject to such conditions and reservations as he may deem expedient, and to buy in the same at any sale by public auction, or to rescind any contract or agreement entered into for the sale thereof.

Whenever the Commissioner shall make sale of lands under last preceding section, he shall receive all payments made on account thereof, &c.

XXVII. Whenever "the Commissioner of public lands" shall have made a sale of any lands under the last preceding section of this Act, all payments on account thereof shall be made to him, as in other cases of purchase under this Act, and he shall give a deed thereof, in same manner and form as pointed out in the twenty-third section of this Act, with a like defeasance or memorandum endorsed thereon, in case of the amount of purchase money not being paid, as in the same section also pointed out; and the deeds shall be executed in duplicate, in like manner, and the lands conveyed subject to the like lien and charge, as therein also mentioned, for such part of the purchase money as shall remain unpaid, and to be enforced as hereinafter mentioned.

XXVIII. The consideration money for all lands sold by "the Commissioner of public lands" under this Act shall be paid in the following proportions and instalments; that is to say, twenty *per cent.* thereof at the time of making the purchase, and at or before the time of the execution of the deed, and the remainder, with interest, at the rate of five *per cent.*, *per annum*, on the amount from time to time remaining unpaid, in ten equal annual instalments, the said interest to be annually paid, together with each instalment: provided, nevertheless, that any purchaser may at any time pay off the whole amount of the purchase money and interest, if any be due, and obtain a full discharge of his land therefrom.

20 *per cent.* of the purchase money to be paid at the time of purchase, and remainder, with interest, in annual instalments.

XXIX. "The Commissioner of public lands" shall keep in his office a separate book for each township of lands, in which shall be entered the particulars of all lands purchased and sold, or conveyed by him with the names of the various persons purchasing or occupying the same, with dates of purchase, and account of payments and amounts due, with all other necessary particulars, and so arranged and numbered, as if possible always to agree with the general plan of the township, to be likewise kept in his office; which book and plan shall be open to the inspection of persons requiring to search the same at any time within office hours, on payment of the sum of one shilling for each general search and inspection on any one day.

A separate book for each township to be kept in commissioner's office.

XXX. "The Commissioner of public lands" shall also enter into such books an exact and correct account of all sales and other dispositions of lands made and negotiated in his office, or proceedings taken therein, and also of all moneys received or paid by him, or into his office, on account of sales, rent or otherwise, and all such books and accounts, as well as all documents, deeds, plans and papers in his office, shall at all times be open to the inspection of the Government, and shall be inspected and audited annually; and "the Commissioner of public lands" shall monthly account for and pay over all moneys in his hands, received or arising under this Act, to the Treasurer, on the first Monday in each month, to be applied to the purposes of this Act, as herein set forth, and to the use of the Government of this Island, as provided for or directed by this Act, or by any Act of the General Assembly of this Island hereafter to be passed.

Commissioner to enter into such books an account of all sales and proceedings taken in his office, moneys paid and received, &c.

XXXI. If the person holding the said office of "the Commissioner of public lands" shall at any time refuse or wilfully neglect to account with and pay over to the Treasurer all such moneys as last aforesaid, or to keep an account book thereof, or to allow the inspection thereof, and of all other books, documents, plans and papers, in manner as in the last

Penalty on Commissioner for refusing or wilfully neglecting to pay over moneys in his hands, &c.

preceding section mentioned, he shall, for every such refusal and neglect, forfeit and pay to Her Majesty, the sum of fifty pounds, over and above the amount of any deficiency in the said moneys so by him payable, the same to be recovered by bill, plaint or information in the Supreme Court of Judicature of this Island, to and for the use of Her Majesty's Government thereof.

The office of "the Commissioner of public lands" to be kept in the Colonial Building

XXXII. The office of "the Commissioner of public lands" shall be kept in the Colonial Building, in Charlottetown, on such days as shall be appointed by the Lieutenant Governor in Council, and on such days shall be open from ten o'clock in the morning to three o'clock in the afternoon.

Commissioner may nominate a clerk or deputy.

XXXIII. Any person appointed under this Act to be "the Commissioner of public lands" shall and may, and he is hereby authorized, from time to time, to nominate and appoint any fit and proper person to act as his clerk or deputy, who shall be, and he is hereby authorized in the absence of "the Commissioner of public lands," to perform the duties of "the Commissioner of public lands," as prescribed in and by this Act or any Act of the General Assembly of this Island hereafter to be passed, or which otherwise by law he is required or authorized to do, as such Commissioner of public lands as aforesaid.

Such deputy, &c. to be appointed by commission from "the Commissioner of public lands."

XXXIV. Such deputy so to be appointed as aforesaid shall be appointed by a commission under the hand and seal of "the Commissioner in public lands," for the time being, which shall be duly registered in the office of the Registrar of deeds of this Island; and the said deputy shall be sworn by a Justice of the Peace, faithfully to perform the duties of his said office, before he shall act therein; and every such "the Commissioner of public Lands" and his sureties, shall be, and they are hereby declared to be, responsible and liable for all and every neglect of duty, defalcation, or improper conduct on the part of any such clerk or deputy, appointed by him in discharge of his duty as aforesaid.

Every person appointed "the Commissioner of public lands" to give security for the faithful performance of the duties of his office by himself and his deputy.

XXXV. Every person to be appointed Commissioner of public lands under this Act, shall, previous to entering upon the duties of his office, give good and approved security, payable to her Majesty, her heirs and successors, in such amount as the Lieutenant Governor in Council shall, from time to time, deem sufficient for the faithful performance of the trust reposed in him and his clerk or deputy, if any be appointed by him, and that he and his clerk or deputy, if any be appointed by him, will duly and properly pay over and account for, according to law, all moneys by him received as such "Commissioner of public lands" as aforesaid, or received by, or entrusted to his said clerk or deputy.

XXXVI. There shall be paid out of the moneys arising under this Act to any person who shall be appointed "the Commissioner of public lands," for the due performance of the duties of his office under this Act, provided that he shall hold no other salaried office under Government, such sum or amount *per annum* as the Lieutenant Governor, by and with the advice and consent of Her Majesty's Executive Council, shall deem sufficient, according to the amount of business to be transacted in his office, not, however, in any case, to exceed the sum of three hundred pounds *per annum*; the said amount to be drawn for by warrant of the Lieutenant Governor or Administrator of the Government of this Island, on the Treasurer thereof.

Salary of "the Commissioner of public lands," regulated.

Not to exceed £300 *per annum*

XXXVII. The Lieutenant Governor may, with the advice and consent aforesaid, out of moneys raised or arising under this Act, and being in the treasury of this Island, pay the necessary expenses attendant on the working of this Act, such as the inspection of the lands offered for sale, and all other expenses incurred in carrying out the provisions of the Act, the same to be paid in the usual manner by warrant drawn on the Treasurer of this Island.

Expenses incurred under this Act, to be paid out of moneys arising thereunder.

XXXVIII. All deeds of conveyance executed by "the Commissioner of public lands," in manner and form as in this Act specified, shall be good and sufficient to pass to the purchaser named therein, the legal estate in fee simple or otherwise, in the lands conveyed, according to the tenure under which the same are held by "the Commissioner of public lands," or the reversion and inheritance thereof, where there are tenants or occupiers thereof, whether holding under leases, written minutes or agreements, in which case they shall pay their rent, as stated in such minutes, leases or agreements, to the purchaser, and hold under him, or otherwise, independently of the attornment of such tenants or occupiers, without any entry or possession given, but subject, as in this Act mentioned, where the whole of the purchase money has not been paid to the specific lien or charge therefor created by this Act; and if the tenant or occupier of any land sold by the said "the Commissioner of public lands" shall be what is commonly termed a squatter, he shall, after the sale and execution of the conveyance to the purchaser, be chargeable with and pay to the purchaser and those claiming under him, such an amount of rent therefor, as represents the interest at the rate of seven and a half *per cent. per annum*, on the price or value in the original classification referred to in section nine of this Act, set on his location, that is to say: if his location, according to such classification, shall be worth fifty pounds, he shall pay three pounds fifteen shillings *per annum*, and so in proportion for any greater or lesser sum; and he shall take

Deeds executed by "the Commissioner of public lands," to pass the legal estate, &c., in the lands without entry, &c.

Squatter to pay the purchaser the rent.

Occupier refusing to pay or execute lease, &c. liable to ejectment.

and execute a lease therefor in the usual form, containing covenants for payment of rent and proviso for re-entry, in case of default, when tendered to him by the purchaser; and if he refuse or neglect to pay the rent, or take and execute such lease and counterpart, on the same being so tendered to him as aforesaid, he shall in either case be liable to be ejected, on demand of possession being made; and the only evidence required to be given by the purchaser on the trial of such ejectments, to entitle him to recover a judgment therein, shall be the deed to himself hereunder from "the Commissioner of public lands," comprising the land for which the ejectment is brought, the nonpayment of the rent, or refusal to take and execute the lease or counterpart thereof, as aforesaid, when tendered, and the demand of possession; always, however, saving and reserving to the occupier or tenant the benefit of the statute of limitations, and also the right to shew in himself otherwise a good title, documentary or otherwise, but the *onus probandi* in such case to be on the occupier or tenant.

No deed of conveyance from Commissioner of public lands to have any validity, if obtained by fraud &c.

XXXIX. No deed or conveyance of any land sold by "the Commissioner of public lands," under this Act, shall be of any effect, if obtained by any fraud or wilful misrepresentation or misstatement of any facts connected therewith, but all deeds or conveyances obtained by any such means shall be utterly void and of none effect; and any person or persons who by such means may have obtained a deed or possession of any lands purchased or sold by virtue of this Act, shall be liable to be ejected therefrom forthwith, without any notice to quit or demand of possession.

Deeds of sale to be countersigned by the Lieutenant Governor, &c.

XL. No deed of sale or other disposition of lands made in writing under this Act shall be valid or effectual to pass any estate therein, unless the same shall have been approved of by the Lieutenant Governor; conclusive evidence of which approval shall be the countersigning of each deed by the Lieutenant Governor, in some conspicuous part thereof.

Persons purchasing lands not bound to inquire whether the provisions of this Act have been complied with.

XLI. For the protection of persons, to whom lands may be sold, or otherwise disposed of by "the Commissioner of public lands," under this Act, no such persons shall be bound to inquire whether the same has been approved of by the Lieutenant Governor or not, or whether any survey required by any provisions of this Act has been made or not, or whether a duplicate of the conveyance or deed has been made pursuant to this Act, or whether the provisions of this Act in other respects shall have been duly complied with or not, or whether such conveyance or deed, or the original purchase and conveyance of the lands therein comprised shall or shall not have been in fact authorized by this Act, or conducted regularly thereunder, or shall or shall not have been within the provisions and true intent and meaning of this Act; but every such deed or in-

strument by which any sale or other disposition shall purport to be made under the authority of this Act, shall, after the same shall have been duly countersigned by the Lieutenant Governor, pursuant to the provisions of this Act hereinbefore contained, be good, valid and effectual, as against the said "the Commissioner of public lands," and his successors in office, and the Government of this Island, and to pass all interest and estate therein purchased and conveyed to the said "the Commissioner of public lands," under this Act, to the extent of and for the purposes set forth in the deed of sale, or other disposition thereof, and for which the same shall have been executed; and no purchaser or other person paying money under the authority of this Act to the Treasurer or "the Commissioner of public lands" shall be bound to see to the application, or be answerable for the misapplication or nonapplication thereof.

Purchaser not bound to see to application of the money paid by him for the land.

XLII. Until such time as any lands conveyed to "the Commissioner of public lands" under this Act, shall be sold, or if at any time they have become vacant, it shall be the duty of the said "the Commissioner of public lands," and he is hereby authorized and empowered to look after, and manage, and have possession of the same, and to sue for and recover, by all lawful ways and means, and by distress or otherwise, from all persons occupying lands purchased under the provisions of this Act, under leases or agreements, parol or otherwise, granted by the vender or proprietors of the same lands, previous to such purchase, and afterwards subsisting, all and every the annual and other rents, issues and profits, payable or issuing in respect of or out of the same.

Duty of "the Commissioner of public lands."

XLIII. It shall be lawful for "the Commissioner of public lands" to compound for arrears of rent due in respect of any lands conveyed to him under this Act previous to the date of the conveyance, and to make such allowances and deductions therein, as he may think proper, and also to take surrender of old leases, subject to the approval of the Lieutenant Governor in Council, as aforesaid.

"The Commissioner of public lands" may compound arrears of rents, &c.

XLIV. "The Commissioner of public lands," with respect to all lands purchased and conveyed to him under this Act shall (subject to the provisions of this Act), for the purpose of managing the same, have, with respect thereto, all the rights and powers of a person holding and being seized of the legal and equitable estate therein, in fee simple or otherwise, in his own individual right, as the circumstances of each case may require, and incidentally thereto may make claim and demand, or enter, or distrain, or give any notice, or depute any other person to do such acts, to compel any occupier to give up possession of the lands, or to compel the performance

"The Commissioner of public lands," with respect to lands vested in him hereunder, to have same rights, &c., as if possessed thereof in his own right.

of any contract or covenant relating thereto, or the payment of rent or other sum of money in respect thereof, or to recover possession thereof for the nonperformance of any covenant, contract or agreement, or give any notice, or make any entry, or bring any action of trespass or ejectment, or other action in respect of the said lands, either to recover possession thereof, or for damages done thereto, in his name of office or otherwise, as fully and effectually, to all intents and purposes, as if he were personally seized thereof in his own individual right.

Recites that in some cases proprietors have sold their lands and secured the purchase money by judgments in Supreme Court.

"The Commissioner of public lands" may purchase and take assignments of such judgments, &c.

XLV. And whereas some proprietors of lands in this Island have, in disposing of the same, instead of giving leases, executed absolute deeds of release, or conveyance in fee simple, and secured the payment of the purchase money and interest by taking bonds and warrants of Attorney, or one of them, therefor, on which judgment can be, and in many cases has been entered in the Supreme Court of Judicature of this Island, and remain of record therein; and the lands so sold and subject to such judgments form in many cases the most valuable part of the property of the proprietor, and it is necessary to provide for the purchase and assignments of such judgments, if need be, and to give full powers to "the Commissioner of public lands" to deal with the same: Be it therefore further enacted, as follows: That it shall be lawful for "the Commissioner of public lands," subject to the approval of the Lieutenant Governor in Council, as in the case of the purchase of lands, to purchase any such judgments at law as aforesaid, of record in Her Majesty's Supreme Court of Judicature of this Island, or other debts, or securities for debt, and to take conveyances and assignments thereof to himself and his successors in office, in the same form, and to the like purport and effect, as in the case of purchasing land under this Act.

How purchase money of such judgments to be paid.

Commissioner may enter into agreements with the defendants to any judgments, respecting the discharge of same, &c.

XLVI. The payment shall be made on the purchase of any such judgments or debts or securities, out of moneys to be raised or arising under this Act, in same manner as in the case of the purchase of lands, and "the Commissioner of public lands" shall have power to issue execution on any judgment assigned, and to use and take all other usual and necessary ways and means to recover any amounts becoming due thereon, or to mark the same satisfied, or to recover any such debts, or put in force any securities therefor, as fully and effectually as the original creditor or plaintiff; and "the Commissioner of public lands" is hereby authorized and empowered, if he think it advisable, and if any of the parties, against whom any judgment stands, shall desire the same, to receive from such parties a conveyance of the lands bound by such judgments, and either to sell out the same again to them in

the terms and under the provisions of this Act, as in other cases, or to make such other agreement or arrangement as he may think proper, always subject to the approval of the Lieutenant Governor and Council, proved by the signature of the Lieutenant Governor on any document or deed relating to or evidencing the transfer or agreement; and on receiving payment of the amount due on any judgment, or receiving a conveyance of the lands bound thereby, "the Commissioner of public lands" shall, and he is hereby empowered to acknowledge satisfaction on the record of the judgment, or to give such other receipt, discharge or release, as the circumstances of the case may require.

And may mark judgments satisfied, &c.

XLVII.* When default is made in the payment of the purchase money, or the interest thereof, or any part thereof, of any lands sold by "the Commissioner of public lands," under this Act, the said "the Commissioner of public lands" shall notify the same by advertisement, published in the *Royal Gazette* newspaper of this Island, and therein specify the land in arrear, by stating the names of persons to whom the same were originally sold, the township and number of acres, and the date of the deed, and require payment within three months or such further time as the said "the Commissioner of public lands" shall think proper, and in such advertisement appoint, and that in default thereof proceedings will be taken for recovering the amount due, which advertisement shall be inserted six times; and if the amount due shall not be paid within the time in such notice or advertisement limited for the payment thereof, it shall be lawful for and the duty of "the Commissioner of public lands" to award a precept in each case to the Sheriff of any County in this Island, as the said "the Commissioner of public lands" shall deem most advisable; and if the precept shall be awarded to the Sheriff of any County, wherein the land in arrear is not situate, but wherein goods and chattels of the person in arrear, the original purchaser, are supposed to be, it shall be in the form or to the same purport as contained in schedule (F), to this Act annexed, requiring him to levy the amount in arrear, with all costs and expenses, on the goods and chattels of such person in arrear, and the said Sheriff shall and may accordingly levy the same on such goods and chattels, if any be found, which shall be irrepleviable, and may be sold at auction by the Sheriff, after he has given at least six days' public notice of such sale; and if the precept shall be awarded to the Sheriff of the County wherein the land in arrear is situate, it shall be in the form in schedule (G), to this Act, authorizing and requiring the Sheriff to levy the amount in arrear, with all costs and expenses, on the goods and chattels of the person in arrear; and if

Notice to be advertised in the *Royal Gazette* when default is made in payment of purchase money.

Form of precept, &c.

* This section is amended by 23 Vic. c. 21.

Sheriff may enter on lands in arrear, and other lands, to levy, &c.

How payments, &c., enforced.

sufficient goods and chattels be not found to satisfy the same, or in case the original purchaser be dead at the time of issuing the precept, then on the land in arrear, and the interest of all persons laying claim to the same (save those subject to which the lands may have been sold by the terms of the deed thereof from "the Commissioner of public lands," on which the proceedings are founded), and such last mentioned Sheriff shall accordingly, and he is hereby authorized to levy the same on the goods and chattels of the person in arrear, wherever found in his county, for all which purposes, it shall be lawful for the Sheriff to enter upon the land for the purpose of making such levy, and elsewhere on other lands, without being liable to any action therefor; and such goods and chattels shall be irrepleviable, and may be sold at public auction by the Sheriff, after he has given at least six days' public notice of such sale; and if sufficient goods and chattels, as aforesaid, cannot be found whereon to levy the amount in default, or if after sale of any such goods and chattels any amount remains unpaid, or in case the original purchaser be dead at the time of issuing the precept, then it shall be lawful for the Sheriff, under the precept so awarded to him, as aforesaid, to levy upon the land itself in arrear, and to seize and sell the same by public auction, at some place in the County wherein the same is situate, after having given at least six months' previous notice thereof, by advertisement, inserted at least three times in the *Royal Gazette* newspaper of this Island; and the said Sheriff is hereby authorized and directed to make, execute and deliver to the purchaser of such land, at his expense, a conveyance thereof, in the form contained in schedule (H), to this Act, which shall be good and valid in law, to give the purchaser a good and valid title thereto against all former holders or purchasers under this Act, subject only to the conditions, reservations and exceptions, and chargeable with the future payments contained, reserved, and charged thereon, in and by the original conveyance thereof from "the Commissioner of public lands," under this Act, or the memorandum or defeasance relating to the payment of the purchase money thereof, endorsed thereon as hereinbefore required; and which future payments shall be recovered and enforced from and against the said purchaser from the Sheriff, and from and against the land purchased by him, by precept and sale, in same manner as against the original purchaser; and the form of the precepts and proceedings shall be as nearly as possible the same, altered only in the recitals and body thereof, so as to meet the different circumstances of the case, and the powers of the Sheriffs and other officers, and forms in proceedings thereunder, shall be the same as in cases founded on the original purchase; and it shall be lawful for the Sheriff or other proper officer, under any precept so

awarded to him, and after any such deed of conveyance shall be so executed; and he is hereby authorized and required, if called upon by the purchaser at any time within three months after the delivery and execution thereof, to enter into and upon the lands in arrear, and sold as aforesaid, and specified in the deed or conveyance, and to put out and remove therefrom all persons being thereon, save those, to whose claims the same may have been sold or made subject, by the terms of the original conveyance thereof, under this Act, by "the Commissioner of public lands," as aforesaid, and their goods and chattels, and to put the purchaser into the peaceable and quiet possession thereof, without any action of ejectment or writ of *habere facias possessionem* being prosecuted for such purpose.

XLVIII. Where a Sheriff shall, under the last preceding section of this Act, have made sale of any goods and chattels, or lands as therein mentioned, he shall, out of the proceeds thereof, pay all the expenses incurred in levying upon, advertising, and selling the same, and all incidental costs and charges, and shall also pay into the hands of "the Commissioner of public lands," within two months after the sale shall have been made, the whole amount realized from said sales under the precept; and "the Commissioner of public lands" shall pay the surplus (if any), to the owner of the goods and chattels, or lands sold, or the person otherwise entitled to receive the same.

How and to whom the Sheriff to pay proceeds of sale of lands.

XLIX. No Sheriff shall take any other or greater fee or fees for any thing done under this Act than is or are allowed by the schedule to this Act annexed, marked (I).

Sheriff's fees.

L. It shall be lawful for "the Commissioner of public lands," where he shall deem it advisable, where a sufficient amount has not been levied under any precept issued by him as aforesaid, to pay the amount in arrear, with costs and expenses, to issue an *alias* precept or *alias* precepts to the Sheriff to whom the first precept was directed, or to the Sheriff of any other county in this Island, according to the requirements of the case, in the same form as the original precept under this Act contained, varied in the recitals and wording thereof, so as to point out and meet the particular circumstances of the case; and under such *alias* precept or precepts the Sheriff to whom the same is or are directed shall have the same powers, and the proceedings shall be the same as in this Act ordained, in the case of the original precept in the case.

An *alias* precept to issue in certain cases, the proceedings under which shall be similar to those under the original precept.

LI. This Act shall not go into operation, or be of any force or effect, until Her Majesty's assent thereto shall be signified, and notification thereof shall have been published in the *Royal Gazette* newspaper of this Island.

Suspending clause.

SCHEDULES to which this Act refers.

SCHEDULE (A.)

Form of deed
from vender of
lands to "the
Commissioner
of public
lands."

Know all men by these presents, that I, *A. B.*, of
in pursuance of a contract and agreement made by me with
E. F., "the Commissioner of public lands" in Prince Edward
Island, acting under the authority of an Act passed, &c.,
(here set forth the title of this Act,) and in consideration of
the sum of _____ paid to me by *C. D.*, Treasurer of the said
Island, on behalf of the Government thereof, the receipt
whereof I do hereby acknowledge, (this of course must be
varied to meet the circumstances of each case), do by these
presents grant, bargain and sell unto the said *E. F.*, "the Com-
missioner of public lands" as aforesaid, and his successors in
office, all that (here describe the land and premises sold, and
also any subsisting mortgages, judgments, contracts, leases or
charges affecting the same, if it shall be thought necessary to
recite them), to have and to hold the said (shortly specifying
the lands, &c.,) to the said *E. F.*, as such "the Commissioner
of public lands" and his successors in office, in trust for such
purposes, and subject to such powers, provisions, regulations
and authorities, in every respect, and to be managed and dis-
posed of in such modes as are set forth, declared and con-
tained in the said recited Act, &c., (here set forth the title of
this Act), of and concerning lands purchased thereunder by
and conveyed to "the Commissioner of public lands" therein
mentioned, (here insert any covenants for title, or other cove-
nant which may have been required from the party selling or
conveying.) In witness whereof, I, the said *A. B.*, have here-
unto set my hand and seal, this _____ day of _____ in the
year of our Lord

Witness to the execution }
by the said *A. B.*, }

A. B., (L. s.)

SCHEDULE (B.)

Certificate of
payment of
price of lands
by the Trea-
surer.

This is to certify that *A. B.*, Treasurer of Prince Edward
Island, has this day paid to *C. D.* undersigned, the sum of _____
of lawful money of the said Island, being the consid-
eration money named in a certain deed of conveyance, bearing
even date herewith, as paid to the said *C. D.* for the purchase
and conveyance of the lands and premises therein described
to "the Commissioner of public lands," under the Act, passed
in the sixteenth year of the reign of Her Majesty Queen Vic-
toria, intituled (here insert the title of this Act.) Dated the
_____ day of _____ A. D. 18 _____

C. D., Vender.

E. F., "the Commissioner of public lands."

SCHEDULE (C.)

Know all men by these presents, that I, *A. B.*, "the Commissioner of public lands" for Prince Edward Island, under the authority of an Act passed (here set forth the title of this Act), in consideration of the sum of _____ of lawful money of Prince Edward Island, to me in hand paid by *C. D.*, of

Form of deed from "the Commissioner of public lands" to a purchaser when all the purchase money is paid.

the receipt whereof is hereby acknowledged, have granted, bargained, released and confirmed, and by these presents do grant, bargain, release and confirm unto the said *C. D.*, his heirs and assigns, all that (here describe the premises sold, and all subsisting contracts, leases or charges affecting the same), together with all and singular the rights, privileges, easements, advantages and appurtenances whatsoever, to the said land and premises belonging, or in any wise appertaining, or therewith now or heretofore holden, used and enjoyed, to have and to hold the said (briefly specifying the premises), with the appurtenances thereunto belonging, hereby granted and released, (if there be any subsisting leases, charges or contracts affecting the premises, here add "subject nevertheless as aforesaid,") unto the said *C. D.*, his heirs and assigns, to the only proper use and behoof of the said *C. D.*, his heirs and assigns for ever, and to no other use, intent or purpose whatsoever, as fully, amply and beneficially, as the original grantee or grantees thereof from the Crown were possessed of the same or entitled thereto. In witness whereof, I, the said *A. B.*, "the Commissioner of public lands," have hereunto set my hand and seal the _____ day of _____ in the year of our Lord one thousand eight hundred and

Signed, sealed and delivered, in the presence of	} <i>A. B.</i> , "the Commissioner of public lands."	{ Seal of office. }	
			Approved,
			<i>E. F.</i> , Lieutenant Governor.

RECEIPT TO BE ENDORSED ON DEED.

Received the _____ day of _____ A. D. 18____, of and from the within named *C. D.*, the sum of _____ being the consideration money expressed to be paid in the within written conveyance.

Witness my hand,

A. B.,

"The Commissioner of public lands."

SCHEDULE (D.)

Know all men by these presents, that I, *A. B.*, "the Commissioner of public lands" for Prince Edward Island, under

Form of deed from "the

Commissioner
of public lands"
to purchaser,
where only
part of pur-
chase money is
paid down.

the authority of an Act passed (here set forth the title of this Act), in consideration of the sum of _____ of lawful current money of the said Island, to me in hand paid by *C. D.*, of _____ the receipt whereof is hereby acknowledged, and also in further consideration of the sum of _____ to be paid (if bearing interest, say "with interest,") by the said *C. D.*, in manner, and at the times specified and set forth in the memorandum thereof, on the other side hereof written, and signed by the said *C. D.*, and according to the terms and provisions of the said recited Act, have granted, bargained, released and confirmed, and by these presents do grant, bargain, release and confirm, unto the said *C. D.*, his heirs and assigns, all that (here describe the premises sold, and any subsisting contracts, leases or charges affecting the same), together with all and singular the rights, privileges, easements, advantages and appurtenances whatsoever, to the said laid and premises belonging, or in any wise appertaining, or therewith, now or heretofore holden, used and enjoyed, to have and to hold the said (briefly specify the premises), with the appurtenances thereunto belonging, hereby granted and released unto the said *C. D.*, his heirs and assigns, to the only proper use and behoof of the said *C. D.*, his heirs and assigns for ever, and to no other use, intent or purpose whatsoever, as fully, amply and beneficially, as the original grantee or grantees thereof from the Crown were possessed of the same or entitled thereto, (if there be any subsisting leases, contracts or charges affecting the premises, say, "subject as aforesaid, and,") subject, nevertheless, to the payments to be made in respect thereof, as set forth in the said memorandum on the other side hereof written, and to be enforced as in the said recited Act set forth. In witness whereof, I, the said *A. B.*, "the Commissioner of public lands," have hereunto set my hand and seal of office, the day of _____ in the year of our Lord one thousand eight hundred and _____

Signed, sealed and
delivered, in the
presence of }

A. B.,
"the Commissioner of
public lands." } Seal
of
office. }

Approved,

E. F., Lieutenant Governor.

RECEIPT TO BE ENDORSED ON DEED.

Received the _____ day of _____ A. D. 18____, from the within named *C. D.*, the sum of _____ being that part of the consideration money which is expressed to be paid in the within written conveyance.

Witness my hand,

A. B.,
"The Commissioner of public lands."

certify in what manner you have executed the same, to the office of "the Commissioner of public lands," on or before the day of next coming.

Given under my hand and the seal of my office, this day of A. D. 18 .

A. B.,
"The Commissioner of { Seal of }
public lands. { office. }"

SCHEDULE (G.)

Office of "the Commissioner of public lands,"
Prince Edward Island.

To the High Sheriff of County.

Form of precept
to Sheriff of
County wherein
the lands in ar-
rear are situ-
ated.

Whereas *C. D.*, of in the said Island, formerly under and by virtue of an Act passed [here set forth the title of this Act], purchased from "the Commissioner of public lands" a certain tract, piece or parcel of land, situate on township number in the said County, thus described [here insert description of land, &c.,) and default hath been made in payment of the sum of [here specify the payment in arrear], the purchase money and interest [or part of the purchase money or interest, or otherwise, as the case may be], now due thereon, of which public notice hath been given as by the said Act is required: therefore, I, "the Commissioner of public lands," by virtue of the power and authority in me by the said Act vested, do command you the said Sheriff, that of the goods and chattels of the said *C. D.*, within your bailiwick, you do cause to be levied the sum of (amount to recover which precept is issued), and also sufficient to satisfy your own fees and incidental expenses; and in default of any such goods and chattels as aforesaid, to satisfy the amount aforesaid, or in case sufficient shall not be found to satisfy the whole thereof, or if the said *C. D.* be not living at the date hereof, then I further command you to levy on the said land, so in arrear as aforesaid, and make public sale thereof, after having given six months' previous notice thereof; and that in all the matters aforesaid and otherwise, you proceed as in the said Act is directed, and that you return this precept, and certify in what manner you shall have executed the same, to the office of "the Commissioner of public lands," on or before the day of next coming.

Given under my hand and the seal of my office, this day of A. D. 18 .

A. B.,
"The Commissioner of { Seal of }
public lands. { Office. }"

SCHEDULE (H.)

SHERIFF'S DEED.

To all to whom these presents shall come, I *A. B.*, High Sheriff of the County of _____ in Prince Edward Island, send greeting:

Whereas in and by a certain precept, in pursuance of an Act of the General Assembly of the said Island, intituled [here insert the title of this Act], issued by "the Commissioner of public lands" appointed under and by virtue of the said Act, and to me directed, I, the said Sheriff was, amongst other things, in certain events which have happened, commanded to make public sale of the tract or piece of land and premises hereinafter particularly described, the same being in arrear of principal and interest to the amount of _____ as by reference to the said precept will more fully appear; and whereas, having given six months' notice, as directed by the said precept, I did, on the _____ day of _____ pursuant to such notice, set up and sell at public auction the said tract or piece of land and premises, when the same was sold and knocked down to *C. D.* of _____ at and for the price or sum of _____

Form of deed of land from Sheriff on sale, &c. under precept.

he, the said *C. D.*, being the best and highest bidder therefor, and being thereupon declared the purchaser thereof: Now, know ye, that I, the said *A. B.*, sheriff as aforesaid, by virtue of my said office, and of the authority hereinbefore mentioned, and in consideration of the sum of _____

to me in hand paid by the said *C. D.*, at or before the ensembling and delivery of these presents, the receipt whereof is hereby acknowledged, have granted, bargained, sold, enfeoffed, released and confirmed, and by these presents do grant, bargain, sell, enfeoff, release and confirm (as much as I may or lawfully can), unto the said *C. D.*, his heirs and assigns, all that tract, piece or parcel of land [here particularly describe the land], together with all and singular the privileges, easements, advantages and appurtenances whatsoever, to the same belonging or in any wise appertaining, and all the estate, right, title, interest, inheritance, use, trust, property, claim and demand whatsoever, both at law and in equity of _____

(the defaulter or original purchaser as the case may be), his heirs or assigns, or any other person or persons whomsoever, claiming, or to claim by, from or under, or in trust for him, them, or any of them, of, in or to the said land and premises, and every part thereof; to have and to hold the said piece or tract of land, tenements and premises hereby conveyed, with the appurtenances, unto the said *C. D.*, his heirs and assigns to the use of the said *C. D.* his heirs and assigns for ever; subject, nevertheless, to the several conditions and reser-

For giving possession of land sold to the purchaser (this as well as the mileage in such case to be paid by the purchaser),	0	5	0
Advertisements, &c. and posting the same (not including newspaper advertisements),	0	3	0
For every deed, -	0	10	0

* * * This Act received the royal assent on the 24th day of October, 1853, and signification thereof was published in the *Royal Gazette* newspaper of this Island, on the 21st day of November of the same year.

CAP. XIX.

An Act to incorporate the Charlottetown gas light company.

Amended by 19
Vic. c. 6., 20
Vic. c. 15, and
22 Vic. c. 11.

EF This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to directions of Act 24 Vic. c. 3.

CAP. XX.

An Act for appropriating certain moneys therein mentioned, **Executed.**
for the service of the year of our Lord one thousand eight
hundred and fifty-three.

ANNO DECIMO SEPTIMO

VICTORIÆ REGINÆ.

At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the ninth day of February, *Anno Domini*, 1854, in the seventeenth year of the reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, Queen, Defender of the Faith:

Being the first session of the nineteenth General Assembly convened in the said Island.

1854.

Sir ALEXANDER
BANNERMAN,
Knight, Lieut.
Governor.

CHAS. YOUNG,
President of
the Council.

J. JARDINE,
Speaker of H.
of Assembly.

CAP. I.

An Act for raising a revenue.

Expired.

CAP. II.

An Act to incorporate sundry persons, by the name of "the president, directors and company of the Bank of Prince Edward Island." See 18 Vic., c. 10.


. This Act did not receive the royal allowance.

CAP. III.

15 Vic., c. 13. An Act in further amendment of, and in addition to the free
 Repealed by
 24 Vic., c. 36. education Act.

CAP. IV.

An Act granting certain privileges to the New York, New-
 foundland and London telegraph company.

 This Act remains in force, but has been printed in the volume of private and
 local Acts, pursuant to directions of Act 24 Vic. c. 3.

CAP. V.

Repealed by 19 An Act relating to the polling divisions of the second elec-
 Vic., c. 21. toral district of Queen's County.

CAP. VI.

12 Vic., c. 24. An Act relating to certain lease and monetary obligations en-
 tered into before the passing of the currency Act.

[Passed May 10, 1854.]

Preamble.

WHEREAS an Act was passed in the twelfth year of the
 reign of Her present Majesty, intituled "An Act to re-
 gulate the specie currency of Prince Edward Island," by
 which it was, amongst other things, enacted, that "one pound
 sterling is hereafter to be represented by one pound and ten
 shillings" currency, and "the British silver shilling, at and
 after the rate of eighteen pence, or one shilling and six pence
 currency: and whereas, although by the seventh section of
 the said recited Act, it is "enacted and declared, that
 nothing in the said Act contained shall extend, or be con-
 strued to extend, to affect any lease, bond or other mon-
 etary obligation made and entered into before the passing
 of the said Act, wherein the rent reserved or money pay-
 able thereunder is expressed to be payable in sterling money
 of Great Britain, or in other words, which by law bear the
 construction that such payment was intended by the parties
 to be made in sterling money of Great Britain—but the same
 shall be and remain subject to the same legal interpretation
 and construction in every respect, as the same would by law
 have been subject to, provided the said Act had never been.

made—any thing therein contained to the contrary notwithstanding:” yet the ninth section of the said recited Act specially enacts, “that as in certain cases, the fees in public offices have been defined by statute to be payable in sterling money, and as it has been customary heretofore in the payment of the said fees to convert the sterling into currency by the addition of one ninth part, such fees shall continue to be paid and received at the same rates, any thing in the said Act to the contrary notwithstanding:” and the first section of the Act made and passed in the said twelfth year of the reign of her present Majesty, intituled “An Act for raising a revenue,” enacts that when goods shall be charged in the invoice in British sterling, “the duties shall be calculated on the amount of such sterling, when reduced into the currency of this Island by adding to the said amount of sterling one ninth part thereof:” and whereas no law ever did exist in this Island defining the relative value of British sterling (any other sterling being unknown) prior to the passing of the said recited Act, and the Courts of Justice therefore had no law, and could have no other rule to guide them, but the established usage of this Island, namely, a par of exchange which had existed for upwards of half a century in monetary transactions, unless otherwise expressed and agreed to, and the rate of which in proportion to the sterling was defined and confirmed by the said two recited Acts relative to the payment of fees and duties: and whereas many leases, agreements and other obligations relating to land, or the tenure thereof, in this Island, have been entered into between private individuals, in which the rents reserved or moneys payable thereunder are expressed to be payable in sterling; and although such rents and moneys have, with few exceptions, been received by the parties entitled thereto, ever since such leases and other obligations have been entered into, at the rate in currency above mentioned, and invariably so by the Crown in all instances in which it has been entitled to the receipt of leasehold or Crown rents in this Island; doubts have, notwithstanding, been entertained as to whether such rents and moneys could not be legally enforced and recovered in British sterling money, irrespective of the long established usage which has so prevailed, and still prevails in this Colony, in regard to the mode of converting the same into currency, and it is of much importance, that the question should now be finally set at rest, and that no defect or uncertainty in the law should give rise to misunderstanding between landlord and tenant: and whereas no provision was made in the said first hereinbefore recited Act on the basis of making rents payable for the future in the currency of this Island at the rate at which it has heretofore been practically paid: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

Sec. 9 of 12 V., c. 24, to extend to leases, entered into before the passing thereof, except, &c.

I. The enactments contained in the said ninth section of the said recited Act made and passed in the twelfth year of the reign of her present Majesty, intituled "An Act to regulate the specie currency of Prince Edward Island," shall extend, and be construed to extend and apply, with regard to the mode of converting sterling money into currency, that is to say, by adding one ninth part to such sterling money, in order to bring it into currency, to any lease, bond or other monetary obligation made and entered into before the passing of the said last recited Act; unless in cases, or in any case where a contrary course may have been mutually recognized and acted upon by the party or parties to any such bond, lease or obligation, either before or since the passing of the said last recited Act, any therein, or in this Act to the contrary notwithstanding.

II. And whereas many of such leases, bonds and other obligations as aforesaid are of many years' standing, and since the time of their executions the currency of this Island has from various cause, become gradually more depreciated in value, and notwithstanding such deterioration, the parties entitled to the receipt of rents and moneys thereunder have, with few exceptions, accepted such sterling rents and moneys by the addition of one ninth only, and in such depreciated currency: and whereas her Majesty the Queen, as appears by a despatch from his Grace the Duke of Newcastle, bearing date the twentieth day of January, one thousand eight hundred and fifty-four, has signified her royal will and pleasure to sanction any law passed by the Legislature of this Colony, whereby parties entitled to such rents and moneys shall be protected from any further depreciation of the said currency beyond its present established rate of value, if such should take place: Be it therefore enacted, That in regard to all such leases, agreements, bonds or other obligations made or entered into before the passing of the said recited Act, intituled "An Act to regulate the specie currency of Prince Edward Island," and in which the rents reserved, or moneys payable thereunder are expressed to be payable in sterling money, although the mode of converting such sterling money into currency shall be by the addition of one ninth part to such sterling to reduce it into currency, in the manner provided by the last preceding section of this Act, subject only to the exceptions therein contained, the respective parties entitled to the receipt of such rents or moneys under any of the said leases, agreements, bonds or obligations shall not be subjected to any further depreciation in the currency of the said Island, or be bound to accept such currency in liquidation of such rents or moneys at a more depreciated rate than its present established and current rate of value; the sovereign, or one

Parties entitled to rents or moneys mentioned in sec. 9 of 12 Vic. c. 24, not to be subject to receive the same at any further depreciation.

one pound sterling being now equivalent to thirty shillings currency, and other British sterling coins at the same relative rate of value, being in the proportion of one to one and a half, notwithstanding that the currency of the said Island should, at any time hereafter, sustain a further depreciation, by the sterling coin of Great Britain passing current at, or becoming nominally worth a higher value in this Island, than its present established rate.

III. This Act shall not have any force or effect until Her Majesty's pleasure therein shall be known; and upon notification thereof being signified, the same shall forthwith be published in the *Royal Gazette* newspaper of this Island.

Suspending:
clause.

* * This Act received the royal allowance on the 8th February, 1855, and notification thereof was published in the *Royal Gazette* newspaper of this Island, on the 8th March following.

CAP. VII.

An Act to encourage steam communication between Charlottetown and certain parts of the Hillsborough and Elliot rivers.

[Passed May 10, 1854.]

WHEREAS it is conceived, that the establishment of steam communication between Charlottetown and Mount Stewart Bridge, and other parts of the Hillsborough river, and Charlottetown and the Elliot river, so far up as the same may be navigable, would tend very much to the public accommodation: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

I. From and after the passing of this Act, it shall and may be lawful to and for the Lieutenant Governor, or other Administrator of the Government for the time being, by and with the advice of Her Majesty's Council, to let and grant to any individual or company, for any period of time not exceeding ten years, the exclusive right of running one or more good and sufficient steamboat or steamboats, for the use and accommodation of the public, between Charlottetown and Mount Stewart Bridge, on the Hillsborough river, touching at the respective wharfs on the north and south side of the said river at McConnell's Ferry, on the way up and down said river; and between Charlottetown and Bonshaw bridge, or a convenient point as near thereto as the depth of water will allow, touching at Deadman's Point, on the north side of the said river, and at Rocky Point wharf on the way up and down the said last-mentioned river; the said steamboat or boats to be bound to run daily between the several points and places hereinbefore mentioned, from the opening of the navigation until the close

Lt. Governor and Council may grant for ten years exclusive right of running steamboats up Hillsborough and West rivers.

**Rates or fares
of steamboats.**

thereof, in each and every year during the continuance of such contract, and at such reasonable rates of fare or charges for the conveyance of passengers, luggage and freight as shall be agreed upon between the Executive Government and the owner or owners of such steamer or steamers, by the contract to be entered into in that behalf.

**Advertisements
to be published
for contracts.**

II. Before any contract shall be made or entered into by the Lieutenant Governor, or any other person on behalf of the Government of this Island, with any party or parties respecting the running or establishment of any such steamboat or steamboats as aforesaid, under this Act, it shall be the duty of the Lieutenant Governor, or other Administrator of the Government, in Council, to notify the public, by advertisement in some one or more of the newspapers published in Charlotte-town, that the privilege of running the said steamboat or boats in manner by this Act provided, is open to public competition, for such time as in such advertisement may in that behalf be limited or expressed; and it shall be the duty of the Lieutenant

**Contracts to be
entered into.**

Governor or Administrator of the Government, in Council, to contract and agree with such person or persons as may be willing to accept and enter into the said contract, upon the best and most favorable terms for the interests of the public; and in such contracts shall and may be contained and set forth all such clauses, stipulations and agreements as may be deemed by the Executive Government necessary or desirable for the security of the passengers and property to be conveyed in and on board of such steamboat or steamboats, and to ensure regularity in the running of such boat or boats, or which may, in any way or manner, tend to the convenience or accommodation of the public.

**Power to be re-
served in con-
tracts to carry
mails.**


III. In entering into any such contract, the Lieutenant Governor, or other Administrator of the Government, in Council, shall have power and authority to bind the party or parties agreeing to run such steamboat or boats to convey any mail or mails on board the same, to and from any place or places within the several routes of such steamboat or boats, when and as often as may be required by any regulation of the Post office department, or any order of the government of this Island, or of the Postmaster General in that behalf.

**Bond required
for due per-
formance of
contracts.**

IV. That the Lieutenant Governor in Council shall cause the party contracting for the service of such boat, to enter into a bond, with two sufficient sureties for the due performance of such contract as may be entered into; and in case of noncompliance with the conditions of such contract, the Lieutenant Governor in Council shall have power to determine the same.

CAP. VIII.

An Act to incorporate the Charlottetown Masonic hall company.

 This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to directions of Act 24 Vic., c. 3.

CAP. IX.


An Act to amend the law relating to weights and measures. **Repealed by 19 Vic. c. 3.**

CAP. X.

An Act to exempt certain bills of exchange, promissory notes, contracts and agreements from the operation of the laws relating to usury. **Continued by 20 Vic. c. 5. Expired.**


CAP. XI.

An Act to amend the Royal Agricultural Society incorporation Act. **12 Vic. c. 21.**

 This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

CAP. XII.

An Act to enable the minister, church wardens and vestry of the Episcopal Church at Saint Eleanor's, to exchange lands held by them for other lands.

 This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

CAP. XIII.

An Act relating to prisoners under sentence of imprisonment with hard labor in Prince and King's Counties. **See 12 Vic. c. 12.**

[Passed May 10, 1854.]

WHEREAS it is deemed expedient to grant to the Supreme Court of this Island, or any Justice thereof, power to order the removal of any prisoner or prisoners sentenced to imprisonment with hard labor in either of the

Prisoners in the jails of Prince or King's Counties may be transferred to jail of Queen's County.

Sheriff of County to execute order.

Counties of Prince or King's County into Queen's County, for the purpose of having such hard labor performed in the last mentioned County: Be it therefore enacted, by the Lieutenant Governor, Council, and Assembly, That from and after the passing of this Act, it shall be lawful for the Supreme Court of Judicature of this Island, or any Judge thereof, on the application of Her Majesty's Attorney General, or other Crown officer, in any case in which any prisoner or prisoners shall have been sentenced to any term of imprisonment with hard labor, in either of the Counties of Prince County or King's County, to make, order, or give directions for the transfer and removal of any such prisoner or prisoners from the jail of the County in which the conviction of such prisoner or prisoners shall have taken place, to the jail of the County of Queen's County, and which order may be made, or directions given at the time of passing sentence; and in all cases, where such order may be made or directions given, it shall be the duty of the sheriff of the County in which the conviction or convictions shall have taken place, to cause such prisoner or prisoners to be removed with all convenient dispatch to the jail of the said County of Queen's County, pursuant to such order or direction; and upon such removal taking place, the said prisoner or prisoners shall be subject to the authority and jurisdiction of the Commissioners appointed for the said last mentioned County, for the time being, for carrying into effect the provisions of the Act of the twelfth Victoria, chapter the twelfth, relating to prison discipline and hard labor, or any Act or Acts for the time being, in force relating thereto, as fully and effectually to all intents and purposes, as if such conviction or convictions had been had in the said County of Queen's County; any thing in the said recited Act to the contrary thereof notwithstanding.

CAP. XIV.

Repealed by 20 Vic. c. 9.

An Act to continue and amend the Princetown royalty Church incorporation Act.

CAP. XV.


Repealed by 25 Vic. c. 2.

An Act to amend the Law now in force relating to statute labor and the expenditure of public moneys on the highways.

CAP. XVI.

An Act for the incorporation of certain bodies connected with the Wesleyan Methodist Church in Prince Edward Island.

Amended by
22 Vic. c. 16 ;
and see 5 W. 4,
c. 6.

 This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to directions of Act 24 Vic. c. 3.

CAP. XVII.

An Act to amend an Act to make provision for the service of nonbailable process in certain cases. 15 Vic. c. 21.

[Passed May 10, 1854.]

WHEREAS it is deemed expedient to amend an Act made and passed in the fifteenth year of the reign of her present Majesty, intituled "An Act to make provision for the service of nonbailable process in certain cases:" Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

I. If judgment shall pass for the plaintiff, the agent, whether the same agent who was served with the process, or any other, shall be bound to respond the same out of the assets of the bodies corporate, company, or proprietors, or owners of land which then are, or at any time afterwards may come into his hand or under his control, deducting his costs and fair and legal commission thereon, to be disclosed by the agent, on oath, if thereto required.

Agent of parties when liable to respond judgment recovered.

II. After judgment, the agent may be examined on oath before the Court or a Judge at chambers, concerning the assets of the company, corporate body, or proprietor or owner of land, in his hands or under his control at the time of judgment, or at any time afterwards; and the plaintiff and his proof may be heard in explanation or contradiction, and such order shall be therein made, as to justice may appertain, which shall be enforced against the agent personally.

Agent when liable to be examined on oath touching assets of principal.

III. If the plaintiff shall desire security previous to judgment, he may, at the commencement of the suit, or during its progress, make oath to the cause of action, and proceed by attachment against the estate and effects of the company, corporate body, proprietor, or owner of land, and by summons, to disclose against the agents and debtors of the company, corporate body, proprietor or owner of land, or by either process, and by one or in separate and several writs; and the estate and effects attached, and also the credits and effects in

Where plaintiff to obtain security, may proceed by attachment against estate or land.

the hands or under the control of the agents or debtors at the time of service, or at any time afterwards, shall be available to respond the judgment to the amount of the sum sworn to and costs, as in cases under the absconding debtors' Act; but the plaintiff may nevertheless proceed against the agent after judgment, as before directed.

Judgment shall
bind property,
and execution
may be en-
forced

IV. Nothing in this Act contained shall prevent the judgment binding the property of the company, body corporate, proprietor or owner of land, from being levied and enforced by execution or otherwise, in such manner, as may be conformable to law in other cases.

CAP. XVIII.

Enacted.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and fifty-four.

ANNO DECIMO OCTAVO

VICTORIÆ REGINÆ.

1854

and

1855.

At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the twenty-sixth day of September, *Anno Domini* 1854, in the eighteenth year of the reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, Queen, Defender of the Faith :

D. DALY, Esq.,
Lt. Governor.

CHAS. YOUNG,
President of
the Council.

E. THORNTON,
Speaker of H.
of Assembly.

Being the first session of the twentieth General Assembly convened in the said Island.

CAP. I.

An Act to amend the jury law.

Executed.

. This Act was passed to render valid the acts and proceedings of the grand and petit juries in October term, 1854, and Hilary term, 1855, notwithstanding whole number of jurors should not have been summoned for those terms.

CAP. II.

An Act to authorize free trade with the United States of America, under a treaty between Great Britain and the United States of America.

[Passed October 7, 1854.]

WHEREAS it is deemed expedient to authorize free trade with the United States of America, under and by virtue of the provisions of a treaty entered into between Great Britain and the United States of America, signed on the fifth day of June, one thousand eight hundred and fifty-four :

Certain enumerated articles to be admitted duty free after 5th June, 1854.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That whenever the Lieutenant Governor, or other Administrator of the Government of this Island for the time being, shall receive satisfactory evidence that the articles hereinafter enumerated will be admitted into the United States of America by law free of duty, the said Lieutenant Governor, or other Administrator of the Government of this Island for the time being, is hereby authorized and empowered to issue his proclamation, declaring that he has such evidence, and thereupon, from the date of such proclamation, the following articles, being the growth and produce of the United States of America, to wit : grain, flour, and breadstuffs of all kinds ; animals of all kinds ; fresh, smoked and salted meats ; cotton wool ; seeds and vegetables ; undried fruits ; dried fruits ; fish of all kinds : products of fish, and of all other creatures living in the water ; poultry ; eggs ; hides, furs, skins or tails, undressed ; stone or marble, in its crude or unwrought state ; slate ; butter ; cheese ; tallow ; lard ; horns ; manures ; ores of metals of all kinds ; coal ; pitch ; tar ; turpentine ; ashes ; timber and lumber of all kinds—round, hewed and sawed—unmanufactured in whole or in part ; firewood ; plants ; shrubs and trees ; pelts ; wool ; fish oil ; rice ; broom-corn and bark ; gypsum, ground or unground ; hewn, or wrought, or unwrought burr or grindstones ; dyestuffs ; flax, hemp and tow, unmanufactured ; unmanufactured tobacco ; rags ; shall be introduced into this Island free of duty, so long as the said treaty shall remain in force ; and all the other provisions of the said treaty shall go into effect, and be observed on the part of this Island with the United States of America.

CAP. III.

11 Vic., c. 7.
15 Vic. c. 13.

An Act to amend two Acts therein mentioned, relating to land assessment.

[Passed October 7, 1854.]

WHEREAS the assessment imposed on land by the Act eleventh Victoria, chapter seven, and the Act fifteenth

Victoria, chapter thirteen, is made payable into the hands either of the Treasurer of this Island or the deputy collectors of assessment, appointed under the provisions of the first hereinbefore recited Act: and whereas the payment of small sums into the treasury for land assessment has been found to impede the business therein:

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, it shall not be compulsory on the Treasurer of this Island, for the time being, previous to proclamation being made, as directed by the Act twelfth Victoria, chapter seven, to receive into his hands the assessment on any quantity of land in this Island less than one thousand acres, or the assessment on any common lot, town lot, pasture lot, or water lot in the said Island; but the said Treasurer may direct all persons attending at the treasury, for the purpose of paying assessment on any quantity of land less than one thousand acres, or the assessment on any common lot, town lot, pasture lot, or water lot in this Island, to make payment of such assessment into the hands of the deputy collector of assessment appointed for Charlottetown, under the provisions of the first herein recited Act; and such persons shall accordingly be bound to make such payment to the said deputy collector of assessment for Charlottetown, who shall, for the purpose of receiving such assessment from all parts of the Island, keep his books open until three days next preceding the day of proclamation being so made as aforesaid; but the said deputy collector of assessment shall not, on any pretence whatever, exact or receive percentage for assessment on any quantity of land, exceeding one thousand acres.

Treasurer not to be obliged, previous to proclamation of lands for arrears of land assessment, to receive the amount payable for any less quantity of land than 1000 acres, &c.

II. And be it further enacted, That from and after the passing of this Act, it shall not be compulsory on the said Treasurer to receive into his hands any assessment imposed by the fifty-eighth section of the said recited Act, fifteenth Victoria, chapter thirteen, on any buildings in the said section of the last recited Act mentioned; but the same shall be paid into the hands of the deputy collector of assessment appointed for the district in which such buildings are situate.

Treasurer not obliged to receive assessment imposed on buildings, &c., by 15 Vic. c. 13, s. 58.

CAP. IV.

An Act to authorize and empower the Lieutenant Governor and Council to call together the Legislature of this Island during an adjournment thereof.

[Passed October 7, 1854.]

WHEREAS it is deemed necessary and expedient that the Lieutenant Governor, or other Administrator of the

Government for the time being, by and with the advice and consent of Her Majesty's Executive Council, should have power and authority to call together the Legislature of this Island during an adjournment thereof:

Id. Governor empowered to call Legislature together by proclamation when same stands adjourned for more than 10 days.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, when the Legislature of this Island stands adjourned for more than ten days, it shall and may be lawful for the Lieutenant Governor of this Island, or other the Administrator of the Government for the time being, by and with the advice of the Executive Council, to issue a proclamation, declaring that the Legislature shall meet on a certain day to be therein named, not less than ten days from the time of issuing such proclamation.

Relates to orders of either branch of the Legislature.

II. And be it further enacted, That in the event of such proclamation being so made as aforesaid by the Lieutenant Governor or other the Administrator of the Government for the time being, all orders which may have been made by either the Legislative Council or House of Assembly of this Island, and appointed for the original day of meeting, or any subsequent day, shall stand appointed for the day named in such proclamation, any law, usage or custom to the contrary thereof notwithstanding.

CAP. V.

Enacted.

An Act to enable the Government to ascertain the population of this Colony, and to obtain other statistical information therein mentioned.

CAP. VI.

Repealed by 24 Vic., c. 10.

An Act in addition to, and further amendment of, the jury law.

CAP. VII.

Amended by 23 Vic., c. 41.

An Act to consolidate and amend the laws, now in force, relating to the office of Sheriff in this Island.

[Passed 9th March, 1855.]

Revised Acts repealed.

BE it enacted, by the Lieutenant Governor, Council and Assembly, That an Act passed in the twenty-sixth year of the reign of King George the Third, chapter fifteen; an Act passed in the forty-eighth year of King George the

Third, chapter two; an Act passed in the seventh year of the reign of William the Fourth, chapter two; and an Act passed in the fourteenth year of the reign of Her present Majesty Queen Victoria, chapter twenty-nine, be, and the same are hereby repealed.

IV. Any Sheriff or under Sheriff retaining in his hands any sum or sums of money, received by virtue of any execution, writ or process, for the space of twenty-four hours after demand made by the person or persons legally entitled to the same, in the presence of one credible witness, shall forfeit to such person or persons the sum of five shillings for every pound of such money for every week, that he or his under Sheriff shall retain the same.

Sheriff, &c., receiving money to account for same.

V. After any writ or process, or execution, directed to any Sheriff out of any of the Supreme Courts that now are, or may hereafter be established in this Island, shall have been delivered to him or his under Sheriff, such Sheriff or under Sheriff, taking delivery of any such writ, process or execution, is hereby required to return the same, with his doings thereon endorsed in due time, and according to the command thereof, into the Court to which such writ shall have been made returnable; and if the said Sheriff or under Sheriff shall neglect to make such return on any writ, process or execution, so as aforesaid delivered, the said Sheriff shall forfeit and pay the sum of twenty pounds to any person suing for the same.

Sheriff, &c., required to make due return of all writs, &c., delivered to him.

VI. If any Sheriff or his under Sheriff shall, on any pretence whatever, after any writ or process shall have come into his hands, or into the hands of his under Sheriff, settle with the person or persons against whom such writ shall have issued, or receive any sum or sums of money whatever, for or on account of such sum or sums of money as such writs may have issued for, or shall return such writs, settled or satisfied, without leave first had and obtained from the party entitled thereto, or his attorney, then such Sheriff shall forfeit and pay to the said party so entitled thereto, for every such offence, whatever sum or sums of money the Court out of which such writs may have issued shall adjudge, besides being liable to an action for the recovery of damages, or to an attachment; the said penalties so adjudged to be recovered by the said plaintiff or defendant by attachment or other process out of the Court that shall or may inflict the same.

Sheriff, &c., liable to fine and action for damages for compromising any debt sued for, on any writ, &c.

VIII. Before entering upon his duty, every Sheriff shall take the following oath, and shall cause the same to be taken by his deputy:—

Form of oath to be taken by Sheriff.

“I, A. B., do solemnly swear, that I will truly serve the Queen in the office of Sheriff for the County of
and promote Her Majesty's profits in all things which

belong to my office, as far as I legally can. I will truly, to the best of my skill and judgment, execute the laws and statutes of this Island; and in all things will act uprightly in my office, for the honor of the Queen, and the good of her subjects.
So help me God."

All Sheriffs, every Trinity term to render account to the Supreme Court of all fines, &c. levied by them.

IX. All Sheriffs shall, on or before the third day's sitting of the Supreme Court at the Trinity term thereof, next after the expiration of their term of office, render an account on oath in said Courts of all such fines, forfeitures, penalties or other debts or dues of the Crown, as shall be levied by them, together with the names of the persons on whom the same shall have been levied; and if any such Sheriff shall neglect or delay such service longer than the time limited as aforesaid, he shall, for every such neglect or delay, forfeit the sum of twenty pounds.

Clerk of the Supreme Court to state at the end of every Trinity term a general account of fines, &c.

X. At the end of every Trinity term of the Supreme Court in each year, the clerk thereof shall state a general account of all fines, forfeitures and penalties adjudged to the Crown in the said Court, or in any other Court of Record that now is or which shall or may hereafter be established in this Island, and which shall be returned or delivered to him by the clerk or clerks of any other Courts of Record, such general account particularizing therein the names of the persons who shall or may be adjudged to pay such fines, forfeitures or penalties, together with the sums appearing by the Sheriff's accounts, as aforesaid, to have been levied on account thereof, as also the sums that may be due from any delinquent party, and the name of such person owing the same, which said general account the said clerk of the said Court is hereby directed to certify, under the seal thereof, into the treasury of this Island; and in case the said clerk shall neglect to return such account within fourteen days after the end of every Trinity term in each year, he shall forfeit and pay the sum of twenty pounds for every such neglect.

Sheriff, whilst in office, not to act as Justice of the Peace.

XI. No High Sheriff shall exercise the office of Justice of the Peace whilst Sheriff, and all his acts, as a Justice of the Peace, during his period in office are hereby declared null and void; and for each and every instance of such his misconduct, he shall forfeit and pay the sum of twenty pounds, one moiety to Her Majesty's Government of this Island, and the other moiety to any person suing for the same.

No person obliged to serve as Sheriff for more than one year, &c.

XII. No person shall be obliged to serve the said office of High Sheriff for more than one year at a time, save as hereinbefore mentioned, nor to accept of the said office in less than seven years after his having served the said office as aforesaid.

All acts, &c. heretofore

XIII. All returns of writs heretofore made, and all Acts heretofore exercised in the name of any deputy or under She-

riff, shall have the like force and effect as if the same had been done in the name of his principal; but from and after the passing of this Act, all returns of writs, executions of deeds, and all other matters and things whatsoever, appertaining to the office of High Sheriff, for any of the Counties in this Island, shall be made, done and executed in the name, and as the act and deed of such Sheriff; and all returns of writs and all matters and things relating to such office, which shall be made, done and executed by and in the name of any person or persons, by color of any deputation or appointment to the office of under Sheriff, shall be deemed and considered null and void, to all intents and purposes; and all and every person or persons, taking advantage thereof, may give this Act and the matter therein contained in any Court of law or equity in this Island.

done in name
of under Sheriff
confirmed.

XIV. All fines, penalties and forfeitures imposed or incurred, by or under this Act, shall, unless otherwise herein directed, be recovered by bill, plaint, or information in Her Majesty's Supreme Court of Judicature, and when not appropriated by this Act, shall be paid into the treasury of this Island, to and for the use of Her Majesty's Government thereof.

Mode of recovery
and appropriation
of fines

. The 2d, 3d and 7th sections of this Act are repealed by 23 Vic. c. 41.

CAP. VIII.

An Act to amend the law relating to the performance of statute labor, and to authorize the establishment of certain additional road districts, and the appointment of road Commissioners therefor.

Repealed by
25 Vic., c. 2.

CAP. IX.


An Act to impose a rate or duty on the rent rolls of the proprietors of certain rented township lands in Prince Edward Island, in order to defray the expenses of any armed force which may be required on account of the withdrawal of the troops, and for the further encouragement of education.

. This Act was disallowed by Her Majesty, as appears by a despatch from Sir George Grey, Her Majesty's principal Secretary of State for the Colonies, dated the 17th November, 1855, and published in Appendix (E), to the Journal of the House of Assembly, 1856.

CAP. X.

Amended by
19 Vic. c. 11.

An Act to incorporate sundry persons by the name of the president, directors, and company of the Bank of Prince Edward Island.

 This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to directions of Act 24 Vic. c. 3.

CAP. XI.

An Act to secure compensation to tenants in Prince Edward Island, and thereby to promote the improvement of the soil.

. This Act was disallowed by Her Majesty as appears by a despatch from Sir George Grey, Her Majesty's principal Secretary of State for the Colonies, dated the 17th November, 1855, and published in Appendix (E), to the Journal of the House of Assembly, 1856.

CAP. XII.

Repealed by 24
Vic. c. 36.

An Act to establish a Normal School and in further amendment of the free education Act.

CAP. XIII.

An Act to consolidate and amend the Acts now in force relating to the public Wharf of Georgetown and other wharfs.

[Passed April 17, 1855.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, as follows, that is to say:

Repeals 7 Vic.
c. 15;

also, 16 Vic. c.
17.

I. An Act passed in the seventh year of the reign of Her present Majesty Queen Victoria, intituled "An Act for the regulation of the public wharf at Georgetown, and other wharfs," and the Act of the sixteenth Victoria, chapter seventeen, in amendment thereof, shall be and the same are hereby repealed.

Lt. Governor to
appoint wharf-
fingers.

II. The Lieutenant Governor in Council shall appoint a fit and proper person to act as wharfinger for the public wharf at Georgetown, and for all other public wharfs in this Island.

Vessels lying
at wharf, to pay
wharfage.

III. It shall and may be lawful for the said wharfinger to ask, demand, take and receive for all vessels, except Her Majesty's ships, whilst careening, loading, unloading, or lying fast to the said wharf, the following rates *per diem*, Sundays excepted, that is to say:

Vessels of ten tons, and under thirty tons, one shilling.

Rates of wharfage.

Vessels of thirty tons and under sixty tons, one shilling and six pence.

Vessels of sixty tons, and not exceeding eighty tons, two shillings; and the additional sum of three pence for every twenty tons in the measurement of vessels, upwards of eighty tons.

Lighters, per load, four pence.

Provided that no more than one half the several wharfage rates hereby imposed shall be chargeable on, or recoverable for or on account of any ship or vessel, while such ship or vessel lies at said wharf discharged, and without having any cargo on board; and provided also, that no ship or vessel shall be subject to the payment of wharfage so long as the navigation shall remain closed by ice, except when undergoing repairs in the spring, as hereinafter mentioned.

Vessel being at wharf without cargo, &c., only liable to half wharfage.

IV. Every ship or vessel, which shall, at any time, only be fast to the aforesaid wharf, and shall be in a condition capable of being removed, shall be obliged to move off from thence, in order to make room for and suffer any other ship or vessel to load, unload, or careen thereat, and on refusal or failure so to do, after due notice and request by the said wharfinger, to the master or commander, or to any one of the owners of such ship or vessel, he or they shall forfeit and pay to the wharfinger a sum not exceeding five pounds, with costs, for each and every such neglect or refusal.

Vessels only made fast to wharf, &c. to be removed to make room for other vessels requiring to load, &c.

V. Every ship or other vessel that shall make fast to any other ship or vessel fastened to the wharf aforesaid, and shall continue so to be fastened, or shall there load, unload or careen, or shall be undergoing repairs prior to or subsequent to the opening of the navigation, shall be subject and liable to pay the one half of the rates that such ship or vessel should and would be liable to pay by this Act, in case of being fastened to the said wharf, and there loaded, unloaded and careened.

Vessel made fast to another, or undergoing repairs, whilst navigation is closed, only liable to half wharfage.

VI. All deals, boards, scantling, lumber, bricks, stone, limestone, and all and every species of merchandise, deposited upon the said wharf, and discharged from any boat or vessel, or placed thereon to be shipped in any boat or vessel, after the same shall continue thereon for the space of twenty-four hours, shall be subject to the following rates of wharfage, that is to say:

Rates of wharfage to be paid for deals, &c., deposited on wharf, after remaining 24 hours thereon,

Deals, for every twenty-four hours, at the rate of one shilling per thousand.

Boards, for every twenty-four hours, at the rate of six pence per thousand.

Bricks, for every twenty-four hours, at the rate of eight pence per thousand.

Limestone, for every twenty-four hours, at the rate of three pence per ton.

Scantling, per hundred running feet, two pence.

Shingles, per thousand, two pence.

Wharfinger, nevertheless, empowered to remove deals, &c. from wharf.

All other articles, materials or matter, at the rate of three-pence per ton, either by weight or cubical measurement, at the option of the wharfinger: provided always, that the said wharfinger shall have power to remove from the said wharf, as directed by the fifth section of this Act, any of the foregoing articles or matter, after the same shall have continued on the said wharf a time sufficient, in the judgment of the said wharfinger, for all reasonable purposes; provided that in no case, such time shall exceed forty-eight hours; and all wharfage payable for such articles, material or matter, shall become due and payable, and be recovered in the same way and manner as is directed by the eighth section of this Act, relative to the recovery of wharfage.

Wharfinger empowered to remove incumbrances, &c.

VII. If the said wharf shall, at any time, be so encumbered with lumber, coals, bricks, or any other species of goods, or ballast, or rubbish, so as to unnecessarily incommode or obstruct the passing or repassing of any carts or carriages employed for the purpose of loading or unloading any ship or other vessel, then and in that case, the wharfinger shall personally warn, or by notice in writing, to be left at the place of the residence of the owner or owners of such lumber, coals, bricks, or other goods or matter, their agent or agents, requiring him or them to remove the same from thence, within a reasonable time; and if the same shall not be removed accordingly, the wharfinger, by himself or his agent or agents, is and are hereby empowered to remove the same, and keep them in his custody, until the whole charges attending the removal be paid by the owner or claimant of such goods; and in case the owner or agent is not to be found, the wharfinger may and shall, at his discretion, remove the said goods, as hereinbefore directed.

Wharfinger to cause obstructions in the approach to the wharf to be removed.

VIII. The said wharfinger is hereby empowered to cause to be removed all obstructions which may be placed on either side of the wharf, in a line with the main street, at the expense of the person causing such obstruction; and to prevent to the utmost of his power, the master or owner of any ship or vessel, lighter or boat, or any other person, from throwing or unloading any stones, gravel, ballast, oyster shells, rubbish, or any other thing, that will not float, into the water, within the limits aforesaid; and the said wharfinger is hereby authorized and required to prosecute any person so offending, who shall, upon due proof thereof, forfeit and pay, for every such offence, a sum not exceeding five pounds, with costs, besides being liable to an action for the damages that any vessel or cargo may sustain thereby.

IX. It shall and may be lawful to and for the said wharfinger, or any person duly authorized, in writing, by the said wharfinger, during the time that any ship or vessel shall continue to use the said wharf for the purposes aforesaid, daily and every day, to ask, demand and recover from the master or commander, owner or agent, of the said ship or vessel, the several rates of wharfage to which the said ship or vessel shall or may be liable: provided that such agent or agents of such ship or vessel shall be liable to pay the same only, when an account shall be delivered to, or in case of absence, left at his or their place of residence; and the money demanded of him or them, or his or their Clerk, before sailing or departure of such ship or vessel from port; and upon refusal of payment, such wharfinger is hereby directed to sue for and recover such rates of wharfage, before any one of Her Majesty's Justices of the Peace, or a Commissioner of small debts, which said Justice or Commissioner is hereby required, on the oath of such wharfinger, or of one or more credible witness or witnesses, of the amount being due, to cause a *capias* to be issued for the recovery of the same, and immediately to proceed and adjudicate thereon, and to proceed for the amount of such judgment, together with costs, as provided for in the twelfth section of this Act.

Wharfinger to demand wharfage daily.

Mode of recovery of wharfage.

X. If any lumber, or other goods, or ballast, or rubbish, shall be laid or left upon the wharf, contrary to the directions of the wharfinger for the time being, the party so offending shall be liable to a fine not exceeding two pounds, with costs, over and above the charges of removing the same therefrom, in case the wharfinger shall cause the same to be removed, as he is hereinbefore authorized to do.

Penalty on person leaving goods, &c., on wharf, contrary to orders of wharfinger, &c.

XI. The person in charge of any vessel lying at the said wharf, when directed by the wharfinger so to do, shall cause the lower yards to be peaked, and the jib-boom and main-boom to be rigged in or taken on board the said vessel, under a penalty not exceeding twenty shillings; and if the owner, master, or person in charge of any vessel, shall allow such vessel, through neglect or otherwise, to injure the said wharf, such person shall be liable for every such offence, to a fine not exceeding twenty shillings, over and above the amount of damage done to the said wharf; and the said amount of damage shall be recovered, at the suit of the wharfinger, by action in any Court of competent jurisdiction.

Wharfinger may direct booms of vessels, to be taken in, &c.

XII. Every wharfinger, appointed under the provisions of this Act shall, quarterly, in each and every year, furnish, on oath, a detailed account of and pay over to the Commissioner of highways for the district in which such wharf may be situate, all moneys that may come into his hands, either by wharf-

Wharfinger to account, &c. to Commissioner of highways.

age or fines or penalties imposed by this Act, under a penalty of ten pounds for each and every such neglect and refusal, the same to be recovered by bill, plaint or information, in Her Majesty's Supreme Court of Judicature; and shall also be liable to be displaced from his situation as wharfinger, one-half of which said wharfage shall be retained for his services, at the time of paying over the same, as aforesaid, and the other half of said wharfage, together with the fines and penalties, shall be applied by the said Commissioner of highways, towards the necessary repairs of the wharf situate in the district for which such Commissioner may have been appointed; and for each and every neglect of the other duties imposed on the wharfinger by this Act, he shall forfeit and pay a sum not exceeding five pounds, to be recovered, on the oath of one or more credible witness or witnesses, before any two of Her Majesty's Justices of the Peace or Commissioners of small debts, and applied as hereinbefore directed.

Penalty on wharfinger for neglect of duty &c.

XIII. All fines and penalties that may arise under and by virtue of this Act, in respect of the said wharf at Georgetown, or other wharfs, affected by this Act, except such fines and penalties as are hereby imposed upon the wharfinger, shall be sued for, and recovered, together with costs, upon the oath of said wharfinger, or any other credible witness, before any one of Her Majesty's Justices of the Peace or a Commissioner of small debts, to be, on default of payment, levied by warrant of distress and sale of the offenders' goods and chattels; and if no goods and chattels can be found whereon to levy the same, it shall and may be lawful for the said Justice or Commissioner of small debts to commit the parties so offending to the jail of the County wherein the wharf, in respect of which such fine or penalty shall have been incurred, may be situate, for a period not exceeding two calendar months.

Mode of recovery of other penalties imposed by this Act.

XIV. No wharf in this Island shall be deemed a public wharf, within the meaning of this Act, unless vessels of not less than ten tons can safely lie thereat.

What shall be deemed a public wharf.

XV. The appointment of wharfingers for any public wharf in this Island shall be made in the same manner, and their salaries, excepting the salary of wharfingers for the wharfs in Charlottetown, shall be the same as the wharfinger appointed for the said wharf at Georgetown; and all the enactments, fines, penalties, provisions, regulations, and every clause, matter and thing in this Act contained, in respect of the said public wharf at Georgetown, shall henceforth be extended and applied, in every respect, to such public wharfs in this Island, as are last above described, save and except the wharfs in Charlottetown.

Wharfingers for any wharfs in this Island, to be appointed in same manner as Georgetown wharfinger.

Continuance of Act.

XVI. This Act shall continue and be in force for ten

years from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

CAP. XIV.

An Act to prevent the running at large of swine within the town and royalty of Princetown.

§ This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to Act 24 Vic., c. 3.

CAP. XV.

An Act to continue and amend the Act relating to emigrants. 14 Vic., c. 11.

[Passed April 17th, 1855.]

WHEREAS the Act of the fourteenth Victoria, chapter eleven, intituled "An Act relating to emigrants," will shortly expire, and it is desirable to continue and amend the same :

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows: That from and after the passing of this Act, so much of the first section of the hereinbefore recited Act, as defines the amount of rate or head duty on emigrants or passengers arriving in this Island, be, and the same is hereby repealed ; and instead of the several sums thereby imposed as a rate or head duty on emigrants, the sum of twelve shillings and six pence, and no more, save and except as the same is directed by the said section of the said Act to be increased in the event of any vessel being kept at quarantine, shall be collected, levied and paid for every emigrant or passenger landing in this Island, at any time after the passing of this Act.

Repeals so much of first section of 14 Vic., c. 11, as defines the amount of head duty, &c., on emigrants.

II. That all emigrants and passengers, between the ages of eighteen months and twelve years, shall be subject only to the payment of the rate or head duty of six shillings and three pence currency.

What emigrants only liable to half duty.

III. The said hereinbefore recited Act, and every clause, matter and thing therein contained, save and except in so far as the same is hereby repealed and amended, shall be, and the same is hereby continued for the space of ten years from the passing hereof, and from thence to the end of the then next session of the General Assembly, and no longer.

Continues 14 Vic., c. 11, with certain exceptions, for 10 years.

CAP. XVI.

An Act relating to the offices of controller of customs and navigation laws for Charlottetown, and collector of excise and registrar, and his assistant, and surveyor of shipping.

[Passed April 17th, 1855.]

WHEREAS the Imperial Government has ceased to maintain customs' establishments within this Island, and have discontinued the services of those officers who formerly discharged the duties thereof, which duties are now required to be performed by a controller of customs and navigation laws, and other officers appointed and paid by the Government of this Island; and whereas it is deemed expedient that, amongst other duties required to be performed by the controller of customs and navigation laws for Charlottetown, shall be that of registering British ships as pointed out in the Act of the Imperial Parliament of Great Britain and Ireland, made and passed in the seventeenth and eighteenth years of the reign of Her present Majesty, chapter one hundred and four, intituled "An Act to consolidate and amend the Acts relating to merchant shipping;" and it is therefore necessary to provide for the payment of such officer, and also of an assistant to him, who shall also act as clerk or assistant to the collector of excise and impost duties, and collector of light and all other duties pertaining to the office for Charlottetown:

Controller of customs, &c., for Charlottetown to be *ex officio* registrar of shipping for Prince Edward Island.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows: The controller of customs and navigation laws for Charlottetown shall, from and after the passing of this Act, and so soon as the said recited Act of the Imperial Parliament of Great Britain and Ireland, seventeenth and eighteenth Victoria, chapter one hundred and four, shall go into force and operation, be *ex officio* the registrar of shipping for Prince Edward Island, under the rules and regulations contained in the said Imperial Act, and shall be entitled and required to exercise all the powers, and be empowered and required within this Island to perform all the duties given or required to be performed in and by such Act, by registrars of shipping appointed or acting thereunder.

Amount of salary to be paid to the controller of customs, &c., for Charlottetown.

II. There shall be allowed and paid to the controller of customs and navigation laws for Charlottetown, as and for the salary of that office, the sum of one hundred pounds *per annum*; and all fees of office, allowances and emoluments payable to him under this Act or otherwise, and whether as such controller of customs and navigation laws, or registrar of shipping, or otherwise, or into his office, shall be paid by him into the treasury of this Island, to and for the use of the Government thereof.

III. It shall be lawful for the Lieutenant Governor of this Island, with the advice and consent of the Executive Council, after the passing of this Act, to nominate and appoint a fit and proper person to the office of assistant to the collector of impost and light duty, and controller of customs and navigation laws, to perform his several duties as prescribed in and by the several Acts of this Island, now or hereafter to be in force, or which otherwise by law he is required or authorized to do as such collector of impost and controller of customs and navigation laws or registrar of British shipping; and such assistant shall, before entering on the duties of his office, give security in the usual manner for the faithful and proper discharge of the duties of his office, and to pay over to, and account with the principal in such office for all moneys to be by him received therein.

Lt. Governor, &c., to appoint assistant to collector of impost for Charlottetown.

IV. The collector of impost and excise and controller of customs and navigation laws for Charlottetown, shall hereafter be the head of the customs and excise departments for Prince Edward Island; and the collectors of excise and controllers of customs and navigation laws for the several out ports in the said Island, and other officers of excise and customs therein, shall receive their orders and instructions from the Government through him, and shall severally, within fifteen days after the termination of each quarter, furnish to him, at his office, a full account and return of all business done in their respective offices as such collectors, controllers and officers, up to the end of each quarter, with full and accurate particulars of all entries and payments made to them, or in their offices.

Collector of impost, &c., for Charlottetown to be head of the customs & excise departments for P. E. Island.

V. The Lieutenant Governor, with the advice and consent aforesaid, shall have power to remove any such assistant from his office, and appoint another person to fill up any vacancy accruing in such office, from such removal, or from death or resignation.

Power to Lt. Governor, &c., to remove assistant, &c.

VI. There shall be allowed and paid to the assistant to be appointed under this Act, as and for the salary of his office, the sum of one hundred pounds *per annum*, to be paid quarterly by warrants drawn in the usual manner on the Treasurer of this Island.

Salary of assistant.

VII. The controller of customs and navigation laws for Charlottetown shall, with respect to the registry of British shipping, take and receive in his office the fees and amounts following, that is to say:—

Fees to be taken by the controller of customs, &c.

For every certificate of registry, five shillings.

For every declaration taken or made before the registrar, one shilling.

For every search in registrar's office, one shilling.

For recording every bill of sale, mortgage or other document in registry books, two shillings and three pence.

For every certificate, not being a certificate of registry of a ship, two shillings and three pence.

Controller of customs, &c., to keep account of fees, &c. paid to him, &c.

VIII. The said controller of customs and navigation laws shall keep an exact and correct account in a book of all fees, payments and emoluments whatsoever, paid or payable to him or into his office under this Act, which shall at all times be open to the inspection of the Government of this Island, or any person or persons appointed by it to inspect the same; and he shall account for, and pay over the amount of such fees, payments and emoluments to the Treasurer of this Island quarterly, on the first days of July, October, January and April, or within ten days from such periods, respectively in each year, the amounts so paid to be applied to the use of the Government of this Island, in such manner as shall be ordered by any Act or Acts of the Legislature thereof; and in case he shall refuse, or wilfully neglect to keep such books as aforesaid, or to allow the inspection thereof as aforesaid, or to account with, and pay over to the Treasurer in manner as herein mentioned, he shall, for every such neglect or refusal, forfeit and pay to Her Majesty the sum of fifty pounds over and above the amount of any deficiency in the said moneys so by him payable, the same to be recovered by bill, plaint or information in the Supreme Court of this Island, to and for the use of Her Majesty's Government thereof.

Office of controller of customs, &c., to be kept in Colonial Building.

IX. The office of controller of customs and navigation laws for Charlottetown shall be kept in the Colonial Building, in Charlottetown, and shall be opened on such days as shall be appointed for that purpose by the Lieutenant Governor in Council, from ten o'clock in the morning to four o'clock in the afternoon.

Lt. Governor, &c., to appoint a surveyor of British ship-ping.

X. After the passing of this Act, it shall be lawful for the Lieutenant Governor, with the advice and consent of the Executive Council, to nominate and appoint a fit and proper person within this Island to superintend the survey and admeasurement of ships, in conformity with the provisions of the said recited Act of the Imperial Parliament of Great Britain and Ireland.

Power to remove same, and to make new appointments, &c.

XI. The Lieutenant Governor, with the advice and consent aforesaid, shall have power to remove any person so appointed to superintend the survey and admeasurement of ships as aforesaid, from his office, and to appoint another person to fill up any vacancy occurring in such office, from such removal, or from death or resignation.

Fees to be taken by surveyor of

XII. Any person to be appointed to superintend the survey and admeasurement of ships in this Island, under the provi-

sions of the Imperial Act hereinbefore recited, intituled "An Act to consolidate and amend the Acts relating to merchant shipping," shall receive and take as a remuneration to him for his services to be performed, no other or greater fees than those following, that is to say:—

British shipping.

For certificate of the survey of a vessel under one hundred tons, ten shillings and six pence.

Of a vessel of one hundred tons, and under two hundred tons, fifteen shillings.

Of a vessel of two hundred tons, and less than three hundred tons, seventeen shillings and six pence.

Of a vessel of three hundred tons and upwards, one pound one shilling.

Mileage to make survey, for each mile travelled, one shilling.

CAP. XVII.

An Act to consolidate and amend the laws relating to the manner of proceeding upon controverted elections of members to serve in the General Assembly.

[Passed April 17, 1855.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, as follows, that is to say:—

I. The Act of the seventh Victoria, chapter twenty-three, intituled "An Act to regulate the manner of proceeding upon controverted elections of members to serve in the General Assembly," and the Act of the eleventh Victoria, chapter seventeen, in amendment thereof, shall be, and the same are hereby repealed.

Repeals 7 Vic. c. 23;

also, 11 Vic. c. 17.

II. No petition against the election or the return of any member to serve in the House of Assembly shall be received after the expiration of fourteen days after that appointed for the opening of the Colonial Parliament, for the despatch of business, or after the expiration of fourteen days next after that on which the return of the election of such member shall have been notified to the House, nor unless it be signed by six electors, at least, (being duly qualified, according to law), of the electoral district or town and royalty within this Island for which the controverted election or return shall have been held or made; and the legal qualification of such electors shall be certified by them on oath before any Justice of the Peace, who is hereby authorized to administer such oath, in the form prescribed by the law of this Island; and a certificate of the taking of such oath, under the hand of such Justice of the Peace, shall be annexed to the petition, which shall not be received if this form be not observed, and every such petition

No petition against the return of any member to be received after the expiration of 14 days from opening of Assembly, &c.

Certificate of oath to be annexed to petition.

shall set forth the allegations and reasons, by which such petition is to be supported; and if the House of Assembly shall resolve that the said allegations and reasons, if well founded, are sufficient to render such election or return void, it shall appoint a day for taking the petition into consideration, and the day shall be such as to afford sufficient time for the parties and witnesses to attend before the House or Committee, according to the distance of the place whence they are to come, and the same shall be notified by the Clerk of the House, as well to the sitting member or members, whose election or return shall be contested, as to the petitioners; and the House of Assembly shall proceed to hear, try and determine such contestation, during the session in which it shall be commenced, or during any subsequent session of the same House, if it cannot be determined during that in which it is so commenced.

No petition
against election
or return to be
received, unless
accompanied
by bond.

III. No petition against the election or return of any member to serve in the House of Assembly shall be received unless it be accompanied by a bond, in due form, entered into before the Speaker of the House of Assembly, or before one of the Judges of the Supreme Court of Judicature, by which bond the petitioner or petitioners shall bind himself or themselves, under a penalty of one hundred pounds, with two good and sufficient sureties, under a penalty of fifty pounds each, to appear and prosecute his and their complaint, and to pay such sum of money as the House of Assembly shall adjudge, to the person or persons against whom such a complaint shall have been made, if the petitioner or petitioners shall fail; and the said sureties shall, at the time of signing the said bond, which shall be in the form prescribed in the schedule to this Act annexed, justify their efficiency, on oath, before the said Speaker, who is hereby authorized to administer such oath, or before the said Judge, as the case may be, who shall receive such bond, and shall certify the whole under his hand.

Condition of
bond.

Sureties to justify, and before whom.

Bond, &c. to be
valid against
petitioner and
sureties.

IV. The said bond or recognizance, when so taken, shall be good and valid against the said petitioner or petitioners and sureties, so entering into the same; and after the House of Assembly shall have decided the controverted election, respecting which such bond or recognizance shall have been given, the amount of costs incurred in consequence of the same, and certified under the hand of the Speaker, as herein-after directed, shall and may, in case of nonpayment, be sued for and recovered in Her Majesty's Supreme Court of Judicature of the said Island, by or at the suit of Her Majesty, her heirs and successors, or of any other party, as the case may be, in favor of whom such costs shall have been adjudged by the House of Assembly.

Petitioner and
sitting member

V. The petitioners shall, within a time to be fixed by the House, place in the hands of the Clerk thereof a list of the

witnesses whom they intend to call; and the opposite party shall do the like within the same time; and it shall be the duty of the Speaker to issue an order under his hand, addressed to the Serjeant-at-arms attending the House of Assembly, or his deputies, enjoining him or them to summon the witnesses named in such list to appear on the day and at the hour fixed for the trial of the contestation; and if such witnesses, after being duly summoned, do not appear or give sufficient excuse (of which the said House shall be judge), such of them as make default shall incur a penalty which shall not exceed the sum of one hundred pounds, the same to be recovered by bill, plaint or information in any Court of competent jurisdiction, and to be paid into the treasury of this Island, to and for the use of Her Majesty's Government: provided always, that no witness shall incur any penalty, if such petitioner, or the party summoning him, shall (being thereunto required), have refused to advance him at the rate of three pence per mile, for each mile such witness shall have to travel from his place of residence, to attend before the committee and return again: provided also, that each party shall deposit in the hands of the Clerk of the House the sum reasonably necessary, in the judgment of the Speaker, to defray the expenses of summoning the witnesses of such party, which shall afterwards be taxed by the Speaker of the House, reserving to the House itself the right of deciding finally, which of the parties shall pay the whole amount of such expenses.

to furnish Clerk of Assembly with lists of their witnesses.

Each party to deposit with Clerk of Assembly a sum sufficient to defray expense of summoning witnesses.

VI. When any member shall have signified in writing under his hand to the Speaker, that he does not intend to contest the petition presented against his return, he shall not be admitted as a party against such petition at any time, or during the course of any subsequent proceedings, and shall not sit or vote in the House of Assembly at any time, before the final decision of such contestation.

Sitting member signifying his intention not to contest petition not to be admitted a party against same &c.

VII. The parties shall, within the time mentioned in the first section, exchange lists of all the votes, to whom either of them intend to object before the said House, with the reasons of such objection, and a statement of all other things and incidents, on which either of them intends to insist, or to contest before the said House.

Parties to exchange lists of votes deemed objectionable.

VIII. In all contestations brought before the House of Assembly relative to elections the House shall refer the taking of the inquest to a committee of the whole House, out of which the chairman shall be appointed, and the chairman and members shall be sworn by the Clerk of the House, who is hereby authorized to administer such oath; and the oath of the said chairman and of the members of the said committee shall be to enquire diligently, and without favor or

Mode of trial of contested elections on petition.

partiality, into the facts relative to the order of reference, and to make a true and faithful report of the inquest by them taken, and of their opinion thereon.

Mode of examining witnesses in such cases.

IX. The witnesses shall remain outside of the House, and when called in, they shall, before they are examined, be sworn at the bar by the clerk of the House: provided, that when any member of the House shall be a witness, he may be sworn and examined in his place.

House to determine amount of costs, and Speaker to certify same.

X. After the House shall have decided the controverted election, it shall determine the amount of costs incurred in consequence of the same, and the Speaker shall certify the amount under his hand, and such certificate shall be evidence of such costs in favor of those to whom they shall have been adjudged by the House, in any Court having authority to award judgment and execution for the same: provided always, that if the election of one or more members shall be declared void by the said House, only by reason of facts which shall have happened without the knowledge, participation or consent of such member or members, he or they shall not be condemned to pay any part of the costs.

Punishment of perjury under this Act.

XI. Every person who shall be guilty of wilful perjury in giving any evidence, after being sworn under the authority of this Act, shall be liable to the pains and penalties attached by the laws in force in this Colony to the crime of wilful and corrupt perjury.

Continuance of Act.

XII. This Act shall continue and be in force for the space of ten years from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

CAP. XVIII.

An Act to facilitate the partition of lands held by persons as joint tenants, coparceners or tenants in common.*

[Passed April 17th, 1855.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:

Partition of lands under this statute.

I. That all persons holding lands as joint tenants, tenants in common or coparceners, may be compelled to divide the same in manner provided in this Act.

Proceedings to be commenced by petition to Supreme Court.

II. Any one or more of the persons so holding lands may apply by petition to the Supreme Court for the County where the lands lie for a partition of the same, and such Court may

* For other statutes on this subject, see 30 G. 3, c. 3; 36 G. 3, c. 4; and 6 Vic., c. 26, s. 37.

cause partition to be made accordingly ; and the shares of the petitioners shall be set off and assigned to them, and the residue of the premises shall remain for the persons entitled thereto, subject to a future partition among them, if there is more than one person so entitled.

III. Such petition may be maintained by any person who has an estate in possession, but not by one who is entitled only to a remainder or reversion.

By whom petition may be maintained.

IV. No tenant for any term of years, unless twenty thereof, at the least, remain unexpired, shall maintain such a petition against any tenant of the freehold ; but when two or more persons hold jointly or in common, as tenants for any term of years, either of them may have his share set off and divided from the others, in the same manner, as if they had all been tenants of the freehold.

Same subject.

V. Such partition between two or more tenants for years, shall continue in force only so long as their estates endure, and shall not affect the premises, when they revert to the respective landlords or reversioners.

Duration of partition as between tenants for years.

VI. Every petition for partition shall set forth the rights and titles, so far as known to the petitioner, of all persons interested in the premises, who would be bound by the petition, whether they have an estate of inheritance, or for life or years, and whether it be an estate in possession or in remainder or reversion, and whether vested or contingent ; and if the petitioner holds an estate for life or years, the person entitled to the remainder or reversion, after his estate, shall be considered as one of the persons so interested, and shall be entitled to notice accordingly ; such petition, or any subsequent proceeding had thereon, may be amended at any time upon such terms as the Court or a Judge may impose.

Contents of petition ; amendments to be allowed at any stage.

VII. The petition shall be filed in the same manner as a declaration, and a summons to appear and answer thereto shall be signed by the Prothonotary ; and a copy thereof, with a copy of such petition, accompanied by a rule to plead, and the usual notices, shall be served on each of the parties named in the petition as interested in the premises, if they shall be found within the Island, the like number of days before the sitting of the Court, as is required in declaration suits.

Petition to be filed, summons to be issued and served, with a copy of petition, rule to plead, &c., as if it were a declaration.

VIII. If any of the persons so named as interested are absent from the Island, or if there are persons interested in the premises, and who would be bound by the partition, whose names are unknown to the petitioner, the Court, or a Judge thereof shall order notice to be given to the parties interested, who are so absent or unknown, by a publication of the petition, or of the substance thereof, with the order of the Court

Proceedings in cases, where parties are absent from the Island, &c.

or a Judge thereon, in one or more newspapers to be designated in the order, or by delivering to such absent party an attested copy of the petition and order, or in such other manner, as such Court or Judge shall consider to be most proper and effectual.

Where party fails to appear, Court may order further notice.

IX. If any person entitled to notice shall fail to appear, and if the service of the summons or other notice to him shall appear to the Court to have been insufficient, the Court or a Judge may order such further notice as may be thought proper.

Proceedings may be continued from term to term.

X. If, in any stage of the proceedings, it shall appear to the Court, that any person interested, whether named in the petition or not, is out of the Island, and has not opportunity to appear and answer to the suit, it shall be continued from term to term, until sufficient time has been allowed to enable him to appear and answer thereto.

Guardians for infants, &c., may be assigned by the Court.

XI. The Court or a Judge may assign a guardian for the suit for any infant or insane person who is interested in the premises, in the same manner as a guardian is admitted for an infant plaintiff or defendant at common law.

Defendants may appear jointly or separately.

XII. Any person interested in the premises of which partition is prayed for, may appear and answer to the petition, and may plead either separately or jointly with any other defendants, any matter tending to show that the petitioner ought not to have partition, as prayed for, either in whole or in part; and the replication and further pleadings shall be conducted as in other actions, until issue is joined, which shall be tried and determined as in other cases; all such pleadings to be filed and served in the same way as the pleadings in declaration suits, and notices of trial to be given in like manner.

Replication in cases where party's right to appear and defend is contested.

XIII. If any person who is not named in the petition shall appear and plead as a defendant, the petitioner may reply, that such person has no estate or interest in the lands described in the petition, and may pray judgment, if he shall be admitted to object to the petition; and the petitioner may, in the same replication, plead over in answer to such plea in any other matter in like manner as he might have done, if he had not disputed the defendant's right to appear.

Proceedings thereon.

XIV. If, upon such a replication, it shall appear, that the defendant has no estate or interest in the lands, the matter of his plea or objection shall be no further enquired of.

Costs of trial, how regulated.

XV. If, upon the trial of any issue of law or of fact, it shall appear, that the petitioner is entitled to have partition as

prayed for, he shall recover his costs of such trial against the party who objected thereto, and shall have execution therefor in the usual form ; but if such issue is found or decided against him, in whole or in part, the adverse party shall recover against him the costs of the trial, and shall have execution accordingly, and judgment may, notwithstanding, be entered for the petitioner to have partition, and to have assigned to him such part of the premises, if any, as he shall be entitled to.

XVI. If the defendant shall make default, or if, upon such trial, it shall appear that the petitioner is entitled to have partition, whether for the share or proportion claimed in his petition, or for a less share, a rule that partition shall be made shall pass; but the Court shall have the same power of setting aside defaults and in granting new trials, as in other cases.

Proceedings in cases of default, rule for partition thereon.

XVII. When such rule shall have passed, the Court shall appoint three disinterested persons as commissioners, to make partition and to set off to the petitioners the shares belonging to them, which shall be expressed in the rule in that behalf.

Commissioners to be appointed to make partition under rule.

XVIII. If there are several petitioners, they may have their shares set off together ; or the share of each one may be set off in severalty at their election.

Several petitioners may have shares set off jointly or separately.

XIX. The commissioners, before proceeding to the execution of their duties, shall be sworn before any Justice faithfully and impartially to perform the same ; a certificate of which oath shall be made on the warrant by the person who administered it.

Commissioners to be sworn before a Justice, &c.

XX. The commissioners shall give sufficient notice of the time and place appointed for making the partition to all persons interested therein, who are known and within the Island, that they may be present, if they see fit.

Commissioners to give notice of time and place of partition.

XXI. The three commissioners shall meet for the performance of any of their duties, but the acts of any two of them shall be valid.

The three commissioners to meet, but acts of two to be valid.

XXII. When the premises of which partition is demanded are such as cannot be divided without damage to the owners, or when any specific part of the estate is of greater value than either party's share, and cannot be divided without damage to the owners, the whole estate, or the part thereof so incapable of division, may be set off to any one of the parties who will accept it, he paying or securing to any one or more of the others such sums of money as the commissioners shall award, to make the partition just and equal ; but the partition in such case shall not be established by the Court, until all the sums so awarded shall be paid to the parties entitled thereto, or secured to their satisfaction.

Partition, how effected, where the premises cannot well be divided.

Subject of last preceding section continued.

XXIII. In the case mentioned in the preceding section, the commissioners, instead of setting off the premises, or a part thereof, in the manner herein provided, may assign the exclusive occupancy and enjoyment of the whole or the part, as the case may be, to each of the parties alternately, for certain specified times, in proportion to their respective interests therein.

Tenant liable for injury occasioned by his misconduct, where he has exclusive occupancy.

XXIV. When the whole or any specific part of the premises is assigned, in the manner provided in the preceding section, the person entitled, for the time being, to the exclusive occupancy, shall be liable to his cotenants for any injury to the premises occasioned by his misconduct, in like manner and to the like extent as a tenant for years under a common lease, without express covenants, would be to his landlord; and the other tenants in common may have their remedy therefor against him by an action on the case, either jointly or severally, at their election.

Liabilities in case of sole occupancy, by one tenant in common.

XXV. Whilst any estate is in the exclusive occupancy of any co-tenant, under such an assignment as before mentioned, he shall be entitled to the same remedy against any person who shall trespass upon or otherwise injure the premises, as if he held the same under a lease for the same term for which they were assigned to him; and he and all the other tenants in common shall also be entitled to recover against the wrongdoer such other and further damages as they shall have sustained by the same trespass or injury, in like manner as if the premises had been leased by them for such term; and all joint damages recovered by any such tenants in common, by force of this, or of the preceding section, shall be apportioned and divided among them, according to their respective rights, by the Court in which the judgment is recovered.

Commissioners to make returns to the Court, which, if confirmed, shall be filed and registered.

XXVI. The commissioners shall make a return of their proceedings, under their hands, together with the warrant, to the Court; and if their proceedings are confirmed by the Court, judgment shall be thereupon rendered, that the partition so made be final; and the return shall then be filed, and a certified copy thereof be recorded in the office for the Registry of Deeds in this Island.

Court may set aside return and order new proceedings.

XXVII. The Court, for any sufficient reason shewn, may set aside the return, and commit the case anew to the same or to other commissioners to be appointed, whereupon the same proceedings shall be had, as above directed.

Final judgment upon whom conclusive.

XXVIII. The final judgment, confirming and establishing the partition, shall be conclusive as to all rights, both of property and possession, of all parties and privies to the judgment, including all persons who might by law have appeared and answered to the petition, except as is hereafter provided.

XXIX. If any person who was a part owner with the petitioners, and for whom a share is left upon the partition, should be out of the Island, when the summons or notice to him is served, and should not return in time to appear and answer to the suit, he may, at any time within three years after the final judgment, apply to the Court for a new partition of the premises.

Part owner, absent from the Island, for whom a share was left, may apply within three years for a new partition,

XXX. If, upon such an application, and after hearing of all parties interested therein, it shall appear to the Court, that the share left for the applicant was less than he was entitled to, or that the part left for him was not, at the time of the partition, equal in value to his share of the premises, the Court may order a new partition thereof, which shall be made in the manner before provided.

and Court, if justice require, may order a new partition.

XXXI. In such new partition, the commissioners shall not be required to make a new division of the whole premises, but they may take from any one share or shares and add to any other or others so much as shall, in their judgment, be necessary to make the partition just and equal, estimating the whole as in the state in which it was when first divided; or if an equal partition of the lands cannot be made without inconvenience to the owners, the commissioners may award money to be paid by one party to another, as before provided, to equalize the shares.

Commissioners' duty on making a new partition.

XXXII. If, after the first partition, any improvement shall have been made on any part of the premises, which by the new partition shall be taken from the share of the party who made the improvements, he shall be entitled to compensation therefor, to be estimated and awarded by the commissioners, and to be paid by the party, to whom such part of the premises shall be assigned on the new partition; and the Court may order execution therefor in the usual form.

Improvements to be taken into consideration on new partition.

XXXIII. If any person who has not appeared and answered to the petition for partition shall claim to hold in severalty the premises therein mentioned, or any part thereof, he shall not be concluded by the judgment for partition, but may bring his action for the land claimed by him against any or all of the petitioners or defendants, or of the persons holding under them, as the case may require, within the same time in which he might have brought it, if no such judgment for partition had been rendered.

Persons, not parties to the petition, either as petitioners or defendants, not to be concluded by partition.

XXXIV. When any person who has not appeared and answered to the petition shall claim the share that was assigned to, or left for any of the supposed part owners in the judgment for partition, he shall be concluded by the judgment, so far as it respects the partition and the assignment of the shares, in

A person not appearing, but claiming a share assigned to a part owner,

shall be bound by the partition; but may have an action for the share.

like manner, as if he had been a party to the suit; but he shall not be prevented thereby from bringing his action for the share claimed by him against the person to whom it was assigned, or for whom it was left.

Action, in such case, how and against whom to be brought.

XXXV. The action, in such case, shall be brought against the tenant in possession, in like manner, as if the plaintiff had originally claimed the specific piece of land demanded, instead of an undivided part of the whole land; and it may be brought within the same time in which it might have been brought, if no such judgment for partition had been rendered.

Proceedings where two persons claim the same share before division.

XXXVI. If two or more persons appear as defendants, claiming the same share of the premises to be divided, it shall not be necessary to decide upon their respective claims, except only for the purpose of determining which of them shall be admitted to appear and plead in the suit; and if partition is made, the share so claimed shall be left for whichever of the parties shall prove to be entitled to it, in a suit to be thereafter brought between themselves.

The defendant in certain cases not to be precluded from subsequently contesting his right with the other.

XXXVII. If, in such a case, it shall be decided in the original suit for partition, upon the replication of the petitioners or otherwise, that either of the defendants is not entitled to the share that he claims, he shall be concluded by the judgment, so far as it respects the partition and the assignment of the shares; but he shall not be prevented thereby from bringing his action for the share claimed by him against the other claimant thereof, in the manner provided in the three preceding sections.

Rights of a party not appearing where the share was not known or allowed, how far affected by the partition judgment.

XXXVIII. If any person who has not appeared and answered as above, shall claim any part of the premises mentioned in the petition, as a part owner with those who were parties to that suit, or any of them; and if the part or share so claimed was not known or not allowed, and left for him in the process for partition, he shall be concluded by the judgment so far as it respects the partition; but he shall not be prevented thereby from bringing an action for the share or proportion claimed by him against each of the persons who shall hold any part of the premises under the judgment for partition.

Redress, in such case, how and against whom obtained, &c.

XXXIX. If the plaintiff shall prevail in the case last mentioned, he shall not be entitled to demand a new partition of the whole premises, but he shall recover against each of the persons holding under the judgment for partition the same proportion or share of the part held by him that plaintiff was entitled to out of the whole premises, before the partition thereof.

XL. If, after making of partition, it shall appear that any person for whom a share was left, or to whom a share was assigned, had died before such partition was made, the heir or devisee of such deceased person shall not, by reason of such heir or devisee having been a party to the suit, either as a petitioner or as a defendant, be barred from claiming the share that belonged to the deceased person; but the heir or devisee in such case shall have the same rights and the same remedies in all respects, as if such heir or devisee had not been a party to the suit, and had not notice of the pending thereof.

Rights of heir or devisee how affected.

XLI. If any person, to or for whom any share shall have been assigned or left upon any judgment for partition, shall be evicted thereof by any person who, at the time of the partition, had a title thereto paramount to the title of those who were parties to the suit for partition, the person so evicted shall be entitled to a new partition of the residue, in like manner as if the former partition had not been made.

Remedy where a party is evicted by one having a title paramount.

XLII. Any person having a mortgage, attachment or other lien upon the share of any part owner shall be concluded by the judgment, so far as it respects the partition and the assignment of the shares; but his lien shall remain in full force upon the part that shall be assigned or left for such part owner.

Lien by mortgage or judgment, how affected by partition, &c.

XLIII. In case of the death of any party in a petition for partition, the suit need not abate, but may be conducted and prosecuted to final judgment, under such rules and orders for bringing in the heirs or representatives of the deceased party, as the Court or Judge may think proper, for making them parties to the suit and regulating the proceedings accordingly.

Suit not to abate for death of a party named in a petition for partition.

XLIV. The expenses and charge of the commissioners shall be ascertained and allowed by the Court, and all the other costs of the proceedings shall be taxed in the usual manner, and the whole shall be paid by the parties in proportion to their respective shares or interests in the premises; except only the costs of a trial of any issue joined in the case as to which a different provision is before made.

Expenses of commissioners to be allowed, &c.

XLV. Every person holding any lands under a partition made by virtue of this Act, shall be considered as holding them under an apparently good title; so that, in case of eviction, he shall be entitled to compensation for any improvements made thereon.

Titles, under a judgment of partition, how considered.

XLVI. Every order made in pursuance of this Act by a single Judge, not sitting in open Court, shall be liable to be rescinded or altered by the Court, in like manner as other orders.

Orders of a single Judge liable to be altered or rescinded.

CAP. XIX.

Altered by 23
Vic., c. 39.

An Act relating to the office of Road correspondent, and the appointment of assistants in the several offices in this Island therein mentioned.

[Passed April 17, 1855.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, as follows:

Office of Road
Correspondent
separated from
that of the
Colonial Secre-
tary, &c.

I. From and after the passing of this Act, the office of Road correspondent shall be, and the same is hereby separated from the office of Colonial Secretary of this Island, and shall be and is hereby constituted a separate and distinct office; and the duties of the said office of Road correspondent, together with the duties of the assistant Clerk of the Executive and Legislative Councils, shall be performed by one and the same person, who shall be appointed by the Lieutenant Governor, by and with the advice of the Executive Council; and after having given security to the satisfaction of the Lieutenant Governor and Council, and taken the usual oaths of office, shall be invested with all the powers and authorities, and subject to all the rules, regulations, provisions, fines and penalties, given to or affecting the Colonial Secretary of this Island as such Road correspondent, by or under any Act or Acts of the General Assembly of the said Island.*

It. Governor to
appoint assist-
ants to Colonial
Secretary, Post-
master general,
Treasurer, and
Registrar of
deeds, &c.

II. From and after the passing of this Act, it shall and may be lawful for the Lieutenant Governor, by and with the advice of the Executive Council, to nominate and appoint an assistant for each of the several offices of Colonial Secretary,† Treasurer,‡ Postmaster general, and Registrar of deeds and keeper of plans, in this Island; and the said several assistants, after having taken the usual oaths of office before the Lieutenant Governor in Council, shall be, and are hereby authorized to exercise and perform all the powers and duties of the said Colonial Secretary, Treasurer, Postmaster general and Registrar of deeds and keeper of plans, as prescribed by the several Acts of the General Assembly of this Island, or which otherwise by law the said Colonial Secretary, Treasurer, Postmaster general, Registrar of deeds and keeper of plans are required or authorized to do; and such assistants in the performance of their respective duties shall be subject to the supervision and direction of their respective principals.

* So much of this section as allows the holding of the offices of Road Correspondent and Clerk of the Executive and Legislative Councils by one and the same person, repealed by 23 Vic., c. 39.

† By the Act 14 Vic., c. 24, the Colonial Secretary is authorized to appoint a clerk or deputy.

‡ The Act 14 Vic., c. 25, authorizes the Treasurer to appoint a clerk or deputy.

III. The assistant to the Colonial Treasurer shall give sufficient security to the satisfaction of the Lieutenant Governor and Council for the due and faithful performance of his duties.

Assistant to Treasurer to give security.

IV. The several officers to be appointed under this Act shall hold office, only during the pleasure of the Lieutenant Governor and Council; and any person while holding the office of assistant to the Colonial Secretary, Treasurer, Postmaster general and Registrar of deeds and keeper of plans, shall be incapable of being elected to serve as a member in the General Assembly of this Island.

Officers appointed hereunder to hold office during pleasure, &c.

V. There shall be paid to the several officers to be appointed under this Act, by warrant, quarterly, on the treasury of this Island, the following salaries *per annum*, that is to say:

Salaries to be paid to officers appointed hereunder, &c.

To the Road correspondent and assistant Clerk of the Executive and Legislative Council, the sum of one hundred pounds.

To the assistant to the Colonial Secretary, the sum of one hundred and fifty pounds.

To the assistant to the Colonial Treasurer, the sum of one hundred and fifty pounds.

To the assistant to the Postmaster general, the sum of one hundred and twenty pounds.

To the assistant to the Registrar of deeds and keeper of plans, the sum of one hundred pounds.

VI. From and after the passing of this Act, the following sums shall be annually deducted from the salaries which the Colonial Secretary, Treasurer and Registrar of deeds and keeper of plans are now respectively by law entitled to receive, that is to say:

Amounts to be annually deducted from salaries of certain officers.

From the salary of the Colonial Secretary, the sum of one hundred pounds.

From the salary of the Colonial Treasurer, the sum of one hundred pounds.

From the salary of the Registrar of deeds and keeper of plans, the sum of fifty pounds.

C A P. X X .

An Act in addition to the Acts now in force relating to the asylum for insane persons and other objects of charity, near Charlottetown.

3 Vic., c. 21.

5 Vic., c. 15.

[Passed April 17, 1855.]

WHEREAS by the provisions of the Act of the third year of the reign of Her present Majesty Queen Victoria, chapter twenty-one, the sum of three hundred and fifty pounds, currency, is annually appropriated for the support of the

5 Vic. c. 15.

Asylum for insane persons and other objects of charity, near Charlottetown, the expenditure of which, as well as the management of the said Asylum, is intrusted, by the provisions of the Act of the fifth year of the reign of her present Majesty, chapter fifteen, to seven trustees, to be appointed as therein mentioned: and whereas the Legislature of this Island has, for some time past, found it necessary to appropriate other sums of money, beyond the said sum of three hundred and fifty pounds *per annum*, to the support of the said Asylum; and it is deemed necessary that additional trustees thereof should be appointed, on behalf of the Government, to act in conjunction with the other trustees appointed as aforesaid: Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows:—

Three members of Executive Council, to be appointed additional trustees of Asylum.

I. After the passing of this Act, it shall be lawful for, and the duty of the Lieutenant Governor of this Island, with the consent and advice of Her Majesty's Executive Council, to nominate and appoint three members of the Executive to be trustees of the said Asylum, in addition to the seven trustees appointed under the Act of the fifth Victoria, chapter fifteen, who shall have equal powers with such other trustees to make and ordain rules and regulations for the management of the said institution, and to appoint the several officers therefor, to fix and determine the amount of salaries to be paid to such officers, and the appropriation and expenditure of all moneys voted by the Legislature for the support of the said institution.

What number of trustees shall form a quorum.

II. The same number of trustees as heretofore shall constitute a quorum for the transaction of business, and a majority of them shall determine any question pending before them.

New trustees to be appointed in case of vacancies.

III. The Lieutenant Governor, with the advice and consent aforesaid, shall appoint a new trustee, who shall be a member of the Executive Council, to fill any vacancy occurring among the trustees appointed under this Act, by death, resignation, removal, or otherwise.

Trustee ceasing to be member of Executive, to be no longer trustee.

IV. Whenever any trustee appointed under this Act shall cease to be a member of the Executive Council, he shall also, at the same time, cease to be a trustee under this Act.

CAP. XXI.

12 Vic., c. 1.

An Act to continue the Act relating to the limits and rules of jails in this Island.

[Passed April 17th, 1855.]

WHEREAS the Act made and passed in the twelfth year of the reign of Her present Majesty Queen Victoria,

intituled "An Act relating to the limits and rules of jails in this Island," will shortly expire, and it is necessary to continue the same: 12 Vic. c. 1.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That the said hereinbefore recited Act shall be and the same is hereby continued for the space of ten years from the passing hereof, and from thence to the end of the then next session of the General Assembly, and no longer.

Continues 12
Vic. c. 1.

CAP. XXII.

An Act in addition to an Act relating to the office of Surrogate and Judge of probate of wills, and for granting letters of Administration. 1 Vic. c. 15,

[Passed April 17th, 1855.]

WHEREAS it hath become necessary to invest the Surrogate and Judge of probate of wills with power to impose costs, in cases argued before him:

I. Be it enacted, by the Lieutenant Governor, Council and Assembly: That in all cases that may hereafter be argued before, heard or determined by the said Surrogate and Judge of probate, it shall be discretionary with him whether or not he shall allow the costs of such argument or hearing to the proctors or advocates of the said parties, and the fees of witnesses for attendance and mileage, at the same rate as are allowed in and by the practice of the Supreme Court of this Island; and in case, the said Judge shall think fit to allow any such costs or fees, it shall be lawful for him to grant an order for the payment thereof, and upon neglect or refusal to pay the same at a day to be appointed in the said order, then the said Surrogate and Judge may, upon affidavit of service of such order, and of refusal or neglect, on demand being made, to pay the amount therein contained, issue a process of contempt against the person or persons so refusing or neglecting to obey such order; such process to be executed in the same manner as pointed out in the said Act to which this Act is an addition; and the parties, against whom such process shall have issued, shall be committed to prison till they shall have complied with the requisites of such order.

Empowers Sur-
rogate, &c., to
order payment
of costs in cases
heard before
him, &c.

CAP. XXIII.

An Act authorizing the appointment of additional Coroners in this Island.

[Passed April 17th, 1855.]

WHEREAS, from the increase of population it is deemed necessary to increase the number of Coroners in this

Island: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:—

Additional Coroners to be appointed for the several Counties.

I. From and after the passing of this Act it shall and may be lawful for the Lieutenant Governor in Council, from time to time, to appoint one or more Coroners in and for each of the Counties of Prince, King's and Queen's County respectively, in addition to the persons now holding that office in the said several Counties.

Coroners appointed hereunder to reside in their Counties.

II. All Coroners appointed under this Act shall reside in their respective Counties, and shall use and be invested with and entitled to, all the powers, privileges, perquisites and emoluments of right belonging to the said office of Coroner.

Nearest Coroner to hold inquest.

III. That in all inquests hereafter to be held the Coroner resident nearest to the place where the deceased person shall have died, shall be the Coroner having authority to hold the inquest upon such deceased person; or in the absence of such last mentioned Coroner out of his County, or in the event of his being incapacitated from acting, by illness, interest or otherwise, then such inquest shall be held by such Coroner whose residence shall be next nearest to the place of the death of the deceased as aforesaid.

Expenses of inquest to be paid out of treasury.

IV. The costs and expenses now by law chargeable for holding inquests on the bodies of deceased persons shall hereafter be paid out of the public treasury of this Island, after the same are certified in the usual manner; any law, usage, or custom to the contrary thereof notwithstanding.

Coroners to transmit particulars of inquest to Lieut. Governor, &c.

V. It shall be the duty of all Coroners holding inquests under the authority of this Act, to transmit the proceedings and finding of the same to the Lieutenant Governor in Council, in order to their publication, if thought necessary.

CAP. XXIV.

An Act relating to stamped instruments.

[Passed April 17th, 1855.]

WHEREAS it sometimes occurs that deeds and instruments in writing, relating to real or personal estate situate in this Island, or to transactions pending therein, are signed and executed in the United Kingdom of Great Britain or Ireland, or in some of the dependencies thereof, or in some foreign country or dominion, and by revenue laws of the said United Kingdom, or dependencies, or foreign country, or dominion, are liable to certain stamp duties, and it occurs that such deeds or instruments are offered in evidence in Courts of justice in this Island, and doubts have arisen whether such


deeds or instruments are admissible in evidence, in case the same shall not have been duly stamped, according to the law of the said United Kingdom, or its dependencies, or of such foreign country or dominion, wherein such deeds or instruments shall have been executed:—

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That for the removing of all such doubts as aforesaid, no deed or instrument hereafter to be used in any Court of Justice in this Island, or upon the arbitration of any case, cause or matter at issue between any parties therein, shall be inadmissible in evidence, by reason of the same not having been stamped for duty according to the revenue law or laws of the kingdom, country or dependency in which such deed or instrument may have been executed.

No deed, &c. to be inadmissible in Court of justice, &c., on account of same not being stamped.

CAP. XXV.

An Act to incorporate the Charlottetown Mechanics' Institute.

 This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to Act 24 Vic., c. 3.

CAP. XXVI.

An Act to repeal the Act empowering the Administrator of the Government, in certain cases, to shut up such roads or parts of roads as are no longer required, and to make other provisions in lieu thereof.

3 W. 4, c. 23.

[Passed April 17th, 1855.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, and by the authority of the same, as follows:

I. That where a line of road has been opened or altered in this Island, and any old line of road shall in consequence thereof have been abandoned by the public, or become thereby unnecessary as a general thoroughfare, and such new or altered line of road shall have been made equally as good and passable as the old line, any of the proprietors or occupants of land adjoining the old road may, by petition, stating the facts and the names of all parties interested in the lands on either side of the road, apply to the Lieutenant Governor in Council to shut up or otherwise dispose of the same; which petition shall be accompanied by an affidavit, that at least thirty days' previous notice, in writing, of the application has been given to the parties interested or occupying lands on said old road, and posted up in

Lt. Governor may order old line of road, rendered unnecessary by the opening of a new line, &c., to be closed when new line has been made equally as good.

Notice of application, &c., to be given.

In case of any person opposing same by notice in writing, Lt. Governor to appoint 3 persons to inquire into the case.

Power of Lt. Governor, &c. when no material injury will be sustained by any person.

two public places near the road ; and notice of the said application and petition shall then be given by the Government, by causing the same to be advertised for three consecutive months in the *Royal Gazette* newspaper of this Island, and if, on or before the expiration of the said three months, no person or persons shall have notified in writing his, her or their opposition to the closing of the old line of road, and that he, she or they will be injured thereby, then it shall be lawful for the Lieutenant Governor in Council, if he think fit, to make an order to close the said old line of road ; but if any person or persons, before the expiration of the said period of three months, shall notify the Lieutenant Governor in Council in writing of his, her or their intention to oppose the closing of the said old line of road, and shall state in such notification that he, she or they will be injured or sustain damage by the closing thereof, then the Lieutenant Governor shall nominate and appoint three fit and proper persons, one of whom shall be a commissioner of roads, not being parties in any way interested, who shall, within fourteen days after their appointment, having given at least six days' previous notice thereof, by advertisement in the *Royal Gazette* newspaper of this Island, and by causing the same to be posted in two public places contiguous to the said road, at a day, hour and place to be mentioned in said notice, and the place being near to said road, duly attend, and shall hear the parties applying and their witnesses, and also the parties opposing and other parties interested, if they shall desire it, and their witnesses, and shall also examine said old line of road, and shall make report of such their investigation and opinion thereon, and as to whether any and what parties will be damaged by the closing of the said road, to the Lieutenant Governor in Council ; who, after considering the said report, if it shall appear that no material injury or damage will be sustained by closing the road, may make an order granting or modifying the application for closing the road, as the justice and circumstances of the case may require ; but if it shall appear, that any party will be really and materially injured by closing the road, or if, in the absence of private damage or injury, any other consideration of public convenience may weigh with the Lieutenant Governor in Council, then he shall make an order, dismissing the application for closing the road ; and in case of an order being made for closing such old line of road, then it shall be lawful for the proprietor or proprietors of the lands on each side of the old line of road to stop up and enclose the same in front of their respective properties ; and if more than one proprietor, then to take share and share alike in proportion to the extent of the fronts of their lands respectively : provided, that the right of tenure to the soil of such road so shut up shall not be affected by this Act.

II. That where any line of road already established, or hereafter to be established, shall be irregular, or hilly, or otherwise bad and defective; and the party through whose land the same may pass, shall offer a different and preferable line of road through his land, less irregular and less hilly, or in any other respect better than the old line, then the commissioner of roads for the district, on application to him made for that purpose, and on a plan of the old line and of the proposed line of road being furnished to him, shall lay before the Lieutenant Governor in Council his opinion respecting the application, and also the said plan; and it shall thereupon be lawful for the Lieutenant Governor, with the advice and consent of the Council, if he shall think the same advisable, to issue an order to the said commissioner of roads, authorizing and requiring him to accept the new line of road; and the said commissioner, whenever the same shall be made equally as good and passable as the old road, shall cause the new line to be opened to the public, and the same shall thereupon become a public way and thoroughfare; and the person or persons giving the new line may thereupon enclose so much of the old line of road as runs through his or their lands respectively.

Where a public road is irregular or hilly, &c. and a better line is offered, commissioner of roads for the district to lay the case before Lt. Governor in Council.

III. That the entry or minute of Council, containing any such order of the Lieutenant Governor of this Island for the time being, in Council, authorizing and requiring any road or part of a road to be altered, stopped up, or discontinued as aforesaid, or a true copy thereof, certified by the clerk of the Council, shall be received as evidence of such alteration, stoppage or discontinuance of roads or parts of roads having been made pursuant to law, and shall be deemed and held as final and conclusive in that respect by all Courts within this Island.

What shall be deemed evidence of the closing of any such line of road.

IV. That the Act of the General Assembly of this Island, passed in the third year of the reign of His late Majesty King William the Fourth, chapter the twenty-third, shall be, and the same is hereby repealed.

Repeals 3 W. 4, c. 23.

CAP. XXVII.

An Act in addition to, and amendment of, the Act regulating the laying out and altering of highways.

Continued by 24 Vic. c. 23.

[Passed April 17, 1855.]

WHEREAS the Act of the fourteenth Victoria, chapter one, passed to regulate the laying out and altering of highways, after enacting the mode in which the same shall be done, and how, by the verdict of a jury, the damages or advantages, if any, accruing to persons through whose lands roads may be run, shall be ascertained and assessed, provides

Preamble.

in its seventh section that upon payment or tender in manner as therein mentioned to the tenants or proprietors of the soil, of the sum awarded to them by the verdict of a jury, as compensation for damages sustained by the running of a new line of road over their lands, the right of highway in and over such lands shall be and remain vested in the Crown; provided, that no such payment should be made to the proprietor or tenant until the lands shall have actually been taken possession of for the said highway: and whereas also the said recited Act subsequently, in the sixteenth and subsequent sections, enacts the mode in which, by the examination and statement of three commissioners appointed as therein mentioned, the damages or advantages, if any, accruing to persons through whose lands highways not exceeding five miles in length shall be laid out, or be sought to be laid out, in like manner by its nineteenth section enacts, that immediately upon payment to, and receipt by, the party or parties to whom compensation shall be awarded by the commissioners so appointed, or in case such party or parties shall refuse to receive such compensation, or in case no person or persons shall appear to claim such compensation as aforesaid, within the time limited by the said recited Act for an appeal against the award of such commissioners, then and in every such case the right of way over such land or over so much thereof as shall be owned by the party accepting such compensation, and over so much thereof as shall be owned by such party refusing such compensation, as also over so much of such lands as shall not be claimed by any owner, shall respectively become vested in the Crown to and for the purposes of such road: and whereas it sometimes happens, that the tenants or proprietors of the soil of the lands over which any highway is laid out, under the said recited Act, notwithstanding the provisions of the said Act hereinbefore recited, and although the amount of compensation or damages awarded to them by the verdict of the jury, or of the said three commissioners, as the case may be, may be paid, or tendered to be paid to them, refuse to throw open the line of the highway, as laid out, and continue to obstruct the free use thereof by the public, as contemplated by the said Act; and it is necessary and desirable, that such conduct should be punished by fine:

Where compensation for a new line of road has been awarded, &c., to persons over whose land same shall run;

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That in all cases where compensation has been, or hereafter shall be awarded, under the said recited Act, either by the verdict of a jury or of the Commissioners appointed as therein mentioned, to any party or parties, on account of the running of a new line of highway over land owned or occupied by him, her or them, and the amount thereof has been or shall be paid or tendered to such party or

parties, or in the event of no owner or owners, lessee or lessees, agent or agents of any owner or owners, lessee or lessees of lands appearing, or being found, to whom the compensation may be tendered or paid, where the amount thereof remains at the disposal of the Lieutenant Governor in Council, as pointed out in the said recited Act, thereupon and from time to time, and at all times thereafter, it shall be lawful for the Commissioner of highways for the district wherein the new highway, or any part of it is, or may be situate, and for all other of Her Majesty's subjects, to enter into and upon, and make use of such new line of highway as in all other cases of established highways, and to destroy and remove all nuisances or obstructions thereon; and if any such party or parties, to whom such amount of compensation money has been or shall be paid or tendered as aforesaid, or any other person, shall obstruct the said highway, or the free passage of the public thereon, either by putting up, keeping or retaining fences or any other obstructions across the said road, or in any other way, such party or parties shall be liable to a fine not exceeding ten pounds, in the discretion of the Justices before whom the case shall be tried, for each and every such obstruction; and for every twenty-four hours that such obstruction shall be retained or continued; the said fine or penalty to be sued for by, and in the name of the Commissioner of the road district wherein the line of highway, or the part thereof obstructed, shall be situate, before two or more of Her Majesty's Justices of the Peace for the County, and to be levied on the goods and chattels of the party or parties offending; and in default of sufficient goods and chattels, then the offender to be committed to the County jail for such period as the Justices, in their discretion, shall ordain, not exceeding, in each case, two months.

Public may make use of the new line of road as an ordinary highway, &c.

Penalty on persons obstructing the same.

Mode of recovering penalty.

II. Payment or tender of any sum awarded as compensation to the proprietor or tenant of land, over which a new line of road is intended to pass, may be made, if it be found advisable, before the same is taken possession of for the said highway; any thing in the said recited Act to the contrary notwithstanding; but any party or parties, receiving payment of the compensation money awarded to him, her or them, shall be stopped from disputing the regularity of the proceedings taken under the said recited Act, in order to lay off the said new line of road, in respect of which compensation has been awarded to him.

When sum awarded for compensation may be paid.

III. This Act shall extend to offences hereafter to be committed or continued with respect to roads, or intended lines of highways, or roads which have been laid off, or to lay off which proceedings have been commenced or taken under the said recited Act, previous to the passing of this Act, as well as to highways or roads hereafter to be laid off, or to lay off

This Act to extend to future offences committed under 14 Vic. c. 1;

but not to offences committed before the passing of this Act.

Not to affect pending suits.

which proceedings shall hereafter be taken as aforesaid ; but no person shall be liable to be fined under this Act for any offence committed previous to the passing thereof : provided that nothing in this Act shall extend or be construed to extend to any suit now pending or commenced in any Court, against any person or persons, for refusing to throw open such new lines of road ; but such suits or actions shall be followed up and completed in the Courts in which such suits shall have been commenced.

Tenant or lessee not to pay to landlord rent for land taken from him for highways.

IV. Where land held by a tenant or lessee, under lease or agreement, or a part thereof, shall be laid off or taken for a line of highway or road, under the said recited Act, the tenant or lessee shall be discharged from any further or future payment to the lessor or landlord of the rent reserved and payable in respect of the said land, or of a part or proportion thereof, according to the extent and area of the land taken for the highway or line of road ; and the landlord or lessor shall only be entitled to recover and receive a just proportion of the entire rent reserved in the lease or agreement, according to the quantity of land comprised therein, which shall remain in the possession of the lessee or tenant, after deducting the amount taken for the highway or line of road from the whole quantity originally held or demised under the lease or agreement, upon the certificate of a sworn surveyor of the quantity of land taken for the highway or line of road.

Party aggrieved by any adjudication under this Act may appeal to the Supreme Court, &c.

Power of Supreme Court, &c., on hearing appeal, &c.

V. It shall be lawful for either the plaintiff or defendant, in any case adjudicated under the provisions and by the authority of this Act, to appeal to the Justices of Her Majesty's Supreme Court of Judicature, within six days from the time of such adjudication, in the manner permitted to any plaintiff or defendant, in and by the Act of the General Assembly of this Island, passed in the sixteenth year of her present Majesty's reign, chapter eighth, and upon complying with the provisions of the said Act regarding appeal ; and the Justices of the said Court may, and they are hereby authorized and empowered, in their discretion to affirm, quash or otherwise alter or vary the judgment given below, and make such order therein with respect to the same, and the costs thereof, and of the appeal, as shall seem reasonable, according to the facts appearing before them at the hearing of the appeal, and thereupon to enforce their said judgment in the way and manner prescribed in and by the said last hereinbefore recited Act.

Continuance of Act.

VI. This Act shall continue and be in force so long as the Act, of which this is an amendment, shall be in force, and no longer.

CAP. XXVIII.

An Act relating to the Legislative library.

[Passed April 17, 1855.]

WHEREAS it would be more convenient if the general management of the Legislative library were given to the Lieutenant Governor and Council:—

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, it shall and may be lawful for the Lieutenant Governor in Council to nominate and appoint a fit and proper person to act as librarian to the Legislative library; and such librarian shall hold office during pleasure; and his duties shall be defined and prescribed; and the said library shall be generally managed by the said Lieutenant Governor and Council, under such rules and regulations as may be prescribed by the joint Committee of the Legislative library for the time being.

Lt. Governor
to appoint li-
brarian to the
Legislative
library.

II. The sum of forty pounds per annum, payable quarterly by warrant on the treasury of this Island, shall be allowed to the person holding the office of librarian under this Act.

Salary of
librarian.

CAP. XXIX.

An Act to continue and amend the Act relating to the Her-
ring and Alewives' fisheries in this Island.

Repealed by 24
Vic. c. 7.

CAP. XXX.

An Act to continue an Act to prevent the running at large of
hogs within the Town, Common and Royalty of Charlotte-
town.

10 Vic. c. 7.

☞ This Act remains in force, so far as it relates to the Royalty, and is printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.


CAP. XXXI.

An Act to authorize remuneration to the members of the
Legislative Council for their services in the General Assem-
bly.

. This Act was limited in its operation, being declared to be in force only until the issuing of the writ for the next general election of members to serve in the General Assembly of this Island; and new writs for such election having issued on the 10th day of May, 1858, the statute then expired.

CAP. XXXII.

An Act to naturalize James Searle Mann.

 This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

CAP. XXXIII.


Repealed by
19 Vic., c. 2.

An Act to amend the laws now in force relating to the sale by license of spirituous liquors.

CAP. XXXIV.

Amended by
19 Vic. c. 18,
and 24 Vic. c.
15.

An Act to incorporate the town of Charlottetown.

 This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to directions of Act 24 Vic. c. 3.

CAP. XXXV.

Expired.

An Act for raising a revenue.

CAP. XXXVI.

Executed.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and fifty-five.

ANNO DECIMO NONO

VICTORIÆ REGINÆ.

At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the fourteenth day of February, *Anno Domini* 1856, in the nineteenth year of the reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, Queen, Defender of the Faith:

Being the second session of the twentieth General Assembly convened in the said Island.

1856.

D. DALY,
Lt. Governor.

CHAS. YOUNG,
President of
L. Council.

E. THORNTON,
Speaker of H.
of Assembly.

CAP. I.

An Act for raising a revenue, and to consolidate and amend the several Acts therein mentioned.

[Passed April 14, 1856.]

BE it enacted by the Lieutenant Governor, Council and Assembly, That the following Acts and parts and sections of Acts of the General Assembly, that is to say:—

The Act of the twenty-fifth year of the reign of George the Third, chapter four, intituled "An Act to amend, render more effectual, and reduce into one Act the several laws made by the General Assembly of this Island, relative to the duties

Continued from
year to year by
the several re-
venue Acts, and
now by 25 Vic.
c. 7.

Repeals 25 G.
3, c. 4;

- of impost on wines, rum, brandy, and other spirituous liquors, and for allowing a drawback on all wines, rum, brandy and other distilled spirituous liquors, exported from this Island;" the Act of the thirty-fifth year of the reign of George the Third, chapter ten, intituled "An Act for raising a duty on wine, rum, and other distilled spirituous liquors, and for imposing a duty on porter, ale, and strong beer;" the Act of the fifty-second year of the reign of George the Third, chapter four, intituled "An Act to alter and amend two several Acts of the General Assembly of this Island, *videlicet*, an Act intituled 'An Act to amend, render more effectual, and reduce into one Act the several laws made by the General Assembly of this Island, relative to the duties of impost on wines, rum, brandy, and other distilled spirituous liquors, and for allowing a drawback on all wines, rum, brandy and other distilled spirituous liquors exported from this Island;' and an Act intituled 'An Act for raising a duty on wine, rum, and other distilled spirituous liquors, and for imposing a duty on porter, ale, and strong beer;'" the Act of the fourth year of the reign of William the Fourth, chapter fourteen, intituled "An Act authorizing Collectors of Impost to appoint deputies;" the Act of the twelfth year of her present Majesty's reign, chapter ten, intituled "An Act for raising a revenue;" the Act of the fourteenth year of her present Majesty's reign, chapter eight, intituled "An Act for the better prevention of smuggling," shall be, and the same are hereby severally and respectively repealed: provided always, that nothing herein contained shall be construed to annul, make void, or in any way to affect any proceedings, matters or things, or any security or securities for duties done, performed, taken or entered into under and by virtue of the said several hereinbefore recited Acts.

Certain articles to be admitted into this Island free of duty during the continuance of the treaty relating thereto.

V. The following articles, being the growth and produce of the United States of America, mentioned and enumerated in the Act made and passed in the eighteenth year of her present Majesty's reign, intituled "An Act to authorize free trade with the United States of America," to wit: Grain, flour and breadstuffs of all kinds; fresh, smoked and salted meats; cotton wool; seeds and vegetables; undried fruits; dried fruits; fish of all kinds, products of fish, and all other creatures living in the water; poultry; eggs; hides; furs, skins or tails, undressed; stone or marble, in its crude or unwrought state; slate; butter; cheese; tallow; lard; horns; manures; ores of metals of all kinds; coal; pitch; tar; turpentine; ashes; timber and lumber of all kinds, round, hewed, and sawed, unmanufactured in whole or in part; firewood; plants, shrubs and trees; pelts; wool; fish; oil; rice; broom corn and bark; gypsum, ground or unground; hewn or wrought or unwrought burr or grindstones; dye stuffs; flax; hemp and tow, unmanufactured; tobacco, unmanufactured;

rag; shall be introduced into this Island free of duty, so long as the treaty between Great Britain and the United States of America, in the said recited Act mentioned, shall remain in force.

VI. On the reimportation of any sails, rigging, blocks, cables or anchors, which may have been used in taking vessels to market, the person reimporting the same shall make oath before a Collector of impost, that such articles are the identical sails, rigging, blocks, cables or anchors, as were so previously exported in any such vessel, in manner aforesaid.

Oath to be made by person reimporting sails, &c.

VII. Any ordnance or commissariat stores, or war munitions of any kind whatsoever, or military baggage or clothing, brought into this Island for the use of Her Majesty's army, navy or militia, by any commissary or other person in Her Majesty's service, shall be exempt from the duties imposed by this Act.

Ordnance stores &c., not liable to duty on importation.

VIII. The several articles hereinafter enumerated, being the growth or production of Canada, Nova Scotia, New Brunswick or Newfoundland, shall be exempted from the duty hereby imposed upon them, and shall be admitted into this Island free of duty, when imported direct from the said provinces, or either of them; provided the same shall not pass through or be imported from any country not reciprocating with this Island, as long as the said articles are admitted into Canada, Nova Scotia, New Brunswick, and Newfoundland, or either of them, free of duty, namely: grain and breadstuffs of all kinds; vegetables; fruits; seeds; hay and straw; animals; salted and fresh meats; butter; cheese; lard; tallow; hides; horns; wool; fish; undressed skins and furs of all kinds; ores of all kinds; iron, in pig and blooms; copper; lead, in pigs; grindstones and all kinds of stones; earth; coal; lime; ochres; gypsum, ground and unground; rock salt; wood, timber and lumber of all kinds; firewood; ashes; fish oil, namely, train oil, spermaceti oil, head matter and blubber; fins and skins, the produce of fish or creatures living in the water; poultry; eggs; pitch; tar; turpentine; rice; broom corn and bark; dye stuffs; flax; hemp and tow unmanufactured; unmanufactured tobacco; rag; and cotton wool.

Certain articles admitted duty free into this Island, &c.

IX. If the importer of any dutiable article, at any port or place in this Island, shall be the Collector of excise or Controller of customs and navigation laws, at such port or place, then he shall take the affidavits and make the entries by this Act required to be taken and made by any importer, before a Justice of the Peace, residing nearest to his office; and the said Justice is hereby empowered and required to administer the same; and such Justice shall, if necessary, take from such Collector the bond and warrant of attorney by law

When the importer of goods is a Collector of excise at port of entry, he shall make entry and take importer's oath, &c., before nearest Justice.

required to be given by importers; and such Collector shall enter into, and the Justice shall sign the same, and do all other acts and things by law required for securing the said duties.

Penalty on master for neglecting to make report, &c.

XI. If the master of any ship or vessel shall neglect or refuse to make any report or entry, by this Act directed, or shall make a false report, such master shall be liable to, and shall forfeit and pay for every such offence a fine not exceeding one hundred pounds.

After entry, or time for making same expired, on wines, &c., on board vessels not duly entered, to be forfeited, &c.

XII. If any wine, rum, brandy, gin, or other distilled spirituous liquors, goods, wares or merchandise, of any kind or description, not being duly entered, be found on board any such ship or vessel, after such entry made, or after the time for making such entry has expired, the same is hereby declared forfeited and lost, and shall or may be seized by any Collector of impost, landwaiter, gauger or revenue officer, as forfeited property.

No post entry to be made, but by the master.

XIII. No post entry of any wine, rum, brandy, or other distilled spirituous liquors, molasses, tea, sugar, tobacco, or goods, wares or merchandise of any kind or description whatsoever, shall be permitted to be made by any person whomsoever, except by the master of any ship or vessel, and that within twenty-four hours after the same shall have arrived.

Upon information, officers to search for and seize wine, &c., remaining on board vessel not duly entered.

XIV. Upon information given to any Collector of impost, or any revenue officer, that any wine, gin, brandy, rum, or other distilled spirituous liquors, or other goods, wares, or merchandise of any kind whatever, do still remain on board any ship or vessel (the same not having been duly entered), it shall and may be lawful for any such Collector of impost or other revenue officers to enter on board any such ship or vessel, and there to search for and seize, as forfeited, all such wine, gin, brandy, rum or other distilled spirituous liquors, or other goods, wares or merchandise, of any kind whatsoever, so remaining on board such vessel, and not being duly entered as aforesaid.

All wine, &c. landed after entry, and not contained in master's report, to be forfeited, &c.;

XV. If any wine, gin, brandy, rum, or other distilled spirituous liquors, goods, wares, or merchandise, of any kind whatsoever, shall be landed from on board any ship or vessel, after report shall have been made other than such as shall have been specified and contained in such report or manifest, so as aforesaid directed by this Act to be made, then and in such case, all such wine, gin, brandy, rum, or other distilled spirituous liquors, molasses, tea, sugar, tobacco, goods, wares, or merchandise, or the value thereof, (the same to be estimated at the highest price such commodities shall respectively then bear), shall be, and the same are hereby declared forfeit-

ed, and shall and may be seized by any Collector of impost or other revenue officer; and if such wine, gin, brandy, rum or other distilled spirituous liquors, tea, sugar, tobacco, molasses, goods, wares or merchandise, shall be concealed, or stove, or otherwise destroyed, so as that seizure cannot be made of the same, then the master of such ship or vessel, or the owner or owners thereof, or any person receiving such articles, shall, on being duly convicted thereof, pay the value thereof, according to the aforesaid estimate.

and if concealed or destroyed master, owner, or receiver to pay the value.

XVI. If any wine, gin, brandy, rum, or other distilled spirituous liquors, tea, sugar, molasses, tobacco, or other goods, wares or merchandise, shall be found on board any ship or vessel, and which shall not have been duly entered, or which shall be proved to have been landed, sold, delivered, bartered or exchanged, contrary to the true intent and meaning of this Act, or if any master of any ship or vessel shall refuse or neglect to conform strictly to the directions and provisions of this Act, he shall, on conviction thereof, in either of such cases, on the oath of one credible witness, forfeit and pay a fine not exceeding one hundred pounds.

Penalty on master of vessel for certain offences against this Act.

XVII. If any wine, gin, brandy, rum, or other distilled spirituous liquors, tea, sugar, molasses, tobacco, or any goods, wares or merchandise, of any kind whatever, shall be landed from on board any ship or vessel contrary to the provisions of this Act, and found in the custody, possession, care or keeping of any person or persons whatsoever, on shore (not having a permit therefor), the same shall be forfeited, and the person or persons, with whom the same shall be found, shall forfeit the sum of fifty pounds, unless such person shall prove the same to have been legally entered and landed.

Dutiable articles landed contrary to law, to be forfeited.

XVIII. If any person or persons shall knowingly be aiding and assisting in the clandestine landing or concealing any wine, gin, brandy, rum, or other distilled spirituous liquors, tea, sugar, molasses, tobacco, or other goods, wares, or merchandise, of any kind whatsoever, in order to avoid the payment of the duties to which the same are made liable by this Act, he, she or they shall, upon conviction thereof, on the oath of one credible witness, forfeit and pay the sum of fifty pounds, or suffer six months' imprisonment.

Persons concerned in clandestinely landing same, to forfeit £50, &c.

XIX. No wine, gin, brandy, rum, or other distilled spirituous liquors, tea, sugar, molasses, tobacco, or other goods, wares or merchandise of any kind, liable to duty, shall be landed or delivered from on board any ship or vessel, or afterwards but into any warehouse or other place (except in the day time, that is to say, after sunrise and before sunset of the same day), unless the same be done in the presence and with the consent of the Collector of impost or other officer of revenue, on pain

Dutiable articles not to be landed, except in the day time.

of forfeiting all such liquors and other goods, wares any merchandise; and the vessel from which the same shall have been landed, and all and singular the lighters, boats, or other vessels which shall be employed in landing the same, together with the trucks, carts and horses employed in carrying the same away.

In case of prosecution of master or owner, vessel may be detained to answer judgment therein.

XX. In case the master or owner of any ship or vessel shall be prosecuted for a violation of this Act, such ship or vessel in which the said wine, brandy, gin, rum, or other distilled spirituous liquors, tea, sugar, molasses, or other goods, wares or merchandise, shall have been imported, shall be subject and liable to be detained by any officer employed for the protection of the revenue, to answer the final judgment which may be given in consequence of such prosecution, unless the said master shall and do enter into recognizance, with sufficient sureties, to the satisfaction of the Collector of impost in whose district the ship or vessel shall be, to answer such final judgment.

Where wine, &c., is landed without being entered, &c., persons purchasing same liable to a penalty, &c.

XXI. When any wine, gin, brandy, rum, or other distilled spirituous liquors, molasses, tea, sugar, tobacco, or other goods, wares or merchandise, shall be landed in any port or place in this Island, without being regularly entered, or the duties paid thereon, and the importer or importers of the same shall have quitted the place, then and in such case, the purchaser or purchasers thereof shall be liable to the payment of the duties due and payable thereon, and of a further sum (being equal to the amount of the said duties, as a penalty for purchasing the same), before entry, with an intent to elude the payment of the said duties.

Agents for vessels seized or taken as prizes, to render a true account of the contents of the cargo liable to duty, under a penalty, &c.

XXII. All agents or other persons concerned for vessels taken as prizes, or for vessels seized for illegal importation, shall immediately on their arrival deliver to the Collector of impost, or any other revenue officer, a true account, upon oath, of the contents of the cargo so taken or seized (the same being dutiable goods or articles), and delivered into their care; and if the true contents of the said cargo shall be then unknown to such agent or agents, or other person or persons concerned as aforesaid, then and in such case he or they shall respectively make oath to render a true and faithful account of the said cargo, when the same shall have come to his or their knowledge, so that the duties due thereon may be accurately ascertained, under the penalty of forfeiting one hundred pounds for each and every offence.

No clearance to be given until master has complied with this Act.

XXIII. No clearance or papers shall be given to the master of any ship or vessel outward bound, until the said master shall have first complied with the provisions and requirements of this Act.

XXV. Such drawback on all wines, gin, brandy, rum, or other distilled spirituous liquors, tea, tobacco, goods, wares and merchandise so exported, shall be paid to the exporter or exporters thereof, if the duties imposed thereon as last aforesaid shall have been duly and *bona fide* paid prior thereto, and in the same currency or description of money as warrants shall then be payable at the treasury; and if only secured to be paid, credit shall be given on the back of the security for the drawback hereby allowed on the quantity exported: provided, that before the exportation of any of the before mentioned or other dutiable articles, on which a drawback is allowed as aforesaid, the collectors of impost are hereby severally required, on request made to them for that purpose, to grant permits for such exportation, to be made therein, stating the names of the importers and exporters, and the quantity permitted thereby to be exported; and no drawback shall be paid, nor credit allowed to any such exporter, until he shall have obtained and produced to the Treasurer of this Island a certificate, endorsed on the back of the said permit, from the principal officer of Her Majesty's customs at the port or place to which the same may have been carried, or from some officer or officers there duly authorized to grant the same, stating such wines, gin, brandy, rum, or other distilled spirituous liquors, tea, tobacco, goods, wares or merchandise, to have been there actually landed, and the duties thereon, if any, duly paid or secured to be paid, according to the law of the place, to which the same may have been exported from this Island, pursuant to such permit; and for the better and more effectually preventing frauds herein, the exporter or exporters of any such article or articles as aforesaid shall take and subscribe the following oath, which oath the Collectors aforesaid are hereby severally empowered and directed to administer:—

Mode of payment of drawback.

Collectors of impost to grant permits for exportation of articles subject to duty.

"I, A. B., do swear that the quantity of _____ by me shipped for exportation on board the ship or vessel called the _____ whereof _____ is master, bound for the port of _____ in _____ was *bona fide* imported in the ship or vessel _____ whereof _____ is master, from the port of _____ since the _____ day of _____ and is of the same strength as that for which the duty was paid or secured, and that I have actually paid or secured the duties of impost directed to be levied thereon by the laws of this Island, agreeably to the value in the annexed invoice (or, as the case may be,) and that I have shewn and exhibited the packages in which the said articles are contained to the officer appointed to examine the same, who has attended the reshipment thereof, and that the same have been regularly entered at this office, or some other office of impost in this Island, and are not intended to be fraudulently relanded, brought back, sold, bar-

Form of oath to be taken by exporter.

tered, exchanged or consumed, in any port or place in this Island, or any of the territories thereunto belonging.

"So help me God."

Master of vessel to make affidavit.

And the master of the vessel in which such wines, gin, brandy, rum, or other distilled spirituous liquors, tea, tobacco, goods, wares or merchandise, shall be exported, shall likewise make and subscribe the following affidavit, which shall be annexed to the said invoice: —

Form of master's affidavit.

"I, *A. B.*, do swear, that to the best of my knowledge and belief, the casks or packages (as the case may be), marked and numbered as follows, with the goods therein contained, are now actually laden on board the bound to and I do further swear, that unless prevented by the dangers of the sea or some other unavoidable accident, I will truly land or put on shore at the said port, or some other port or place (out of this Island), the said casks or packages (as the case may be), with the said goods therein contained.

"So help me God."

Dutiable goods, fraudulently landed after shipment for exportation, and vessels conveying same, to be forfeited.

XXVI. If any wine, gin, brandy, rum, or other distilled spirituous liquors, or other dutiable goods, wares or merchandise whatever, shall be fraudulently relanded in or at any port or place within this Island, after the same shall have been shipped for exportation, the vessel so landing the same, and the goods landed, shall be forfeited; and all persons, concerned in such fraudulent relanding, shall also be liable to a fine of fifty pounds.

Defines respective quantities necessary to be exported before drawback can be obtained.

XXVII. Nothing in this Act contained shall entitle any exporter or exporters to a drawback on any less quantity of wine, brandy, gin or whiskey, than fifty gallons, or a less quantity of rum or other distilled spirituous liquors, or of molasses, than one hundred gallons, or on a smaller quantity of tea than eighty pounds, of tobacco than three hundred pounds, of brown or Muscovado sugar than three hundred weight; of coffee, or chocolate, or leather, than one hundred pounds, nor unless the invoice price of articles shipped at one and the same time, in one and the same vessel, and owned by one and the same person, shall, in the respective cases following, amount as follows, that is to say: cordage and canvass, twenty pounds; oakum or tar, each, ten pounds; all other goods, wares or articles, not enumerated in this section, fifty pounds; nor unless application be made for the drawback to be allowed, and the several proofs requisite for obtaining the same be made within twelve months, to be computed from the time of reshipment: provided also, that the time limited for such reshipment shall be from sunrising to sunsetting.

Drawback on wine, &c. when

XXVIII. All wine, gin, brandy, rum, or other distilled spirituous liquors, or other goods, wares or merchandise, which

shall have been or may be imported into this Island, and on which the duties by law imposed shall have been paid or secured, and which shall or may be issued for the use of Her Majesty's navy, shall be deemed and taken as exportable goods and effects, within the meaning of this Act, and shall also be entitled to a drawback of the duty so paid or secured to be paid in manner aforesaid.

issued for use
of Her Majesty's
navy.

XXIX. No wine, gin, brandy, rum, or other distilled spirituous liquors, or other goods, wares or merchandise, shall be so issued or delivered for the use of Her Majesty's navy as aforesaid, unless the same be done under the authority of the Lieutenant Governor, or the proper officer by him appointed for that purpose, to be by him granted on a certificate, signed by the captain or commanding officer of the ship or vessel, for the use of which such liquors may be required, and which certificate shall express that such liquors are necessary for the use of such ship or vessel; and before such drawback shall be paid, allowed or credited as aforesaid, a certificate shall be produced from the captain or commanding officer of such ship or vessel, to the effect that the said articles have been actually received on board the same, for the use aforesaid, and for no other use or purpose whatever: provided always, that if the said articles, or any of them shall, after the same shall have been issued, be relanded or converted to the use of any person on shore, or for any other use than that of Her Majesty's navy, the same shall be forfeited, and the person or persons committing such fraud shall forfeit the sum of fifty pounds.

Manner of obtaining drawback claimed on dutiable articles issued for use of Her Majesty's navy.

Proviso.

XXX. All wine, rum, brandy, or other distilled spirituous liquors, goods, wares, or merchandise, which shall or may be brought into any port or place in this Island as prize, or which shall or may be condemned therein as such, shall be subject to all and singular the duties by law imposed on such articles; and the marshal of the Court of Vice Admiralty, or his deputies, as well as all auctioneers or vendue masters in this Island, is and are hereby directed not to deliver any such wine, gin, brandy, spirits, or other article or merchandise sold by him or them to the purchaser or purchasers thereof, without a permit first had and obtained therefor from the collector of impost, or other proper officer, before he or they shall have rendered a true and perfect account to such officer or officers, upon oath, of the quantity of all such goods, wares and merchandise, which he or they shall or may have sold, and of the names of the persons to whom the same were sold, under the penalty of two hundred pounds for each and every offence.

Prize wine, &c. subject to duties imposed by law.

XXXI. It shall be lawful for the Collectors of impost in this Island, or any officer of the revenue, to go on board any ship or vessel coming into any harbor, port or place, or any

Officers of revenue may board vessels coming

into any port,
&c., of this
Island, and ex-
amine cargo.

part of the coast of this Island, either before or after such ship or vessel comes to anchor, to rummage and search all parts of such ship or vessel so long as she shall remain in such port or place, and to search and examine the cargo, and to examine, if they shall see fit, the master, upon oath, touching the cargo and voyage; and if the master shall not truly answer, or shall refuse to answer the questions to be demanded of him in such examination, he shall forfeit the sum of one hundred pounds.

All boats, ships,
&c., by or from
which goods
liable to for-
feiture shall be
removed, &c.,
forfeited.

XXXII. All boats, ships, vessels and carriages by, from, or out of which goods shall have been removed, or cattle which shall be made use of in the removal of any goods liable to forfeiture under this or any Act relating to the revenue hereafter to be passed, shall be forfeited; and every person who shall assist or be otherwise concerned in the unshipping, landing or removal, or in harboring or concealing such goods, or into whose hands or possession the same shall knowingly come, shall forfeit treble the value thereof, or the penalty of one hundred pounds, at the election of the officer or person prosecuting; and the averment in any information, indictment, or libel, or other pleading to be exhibited for the recovery of such penalty, that the officer or person prosecuting for the same has elected to sue for the sum mentioned in the information, shall be deemed sufficient proof of such election, without any oath or evidence of such fact.

Penalty on per-
son assaulting
or opposing
officer of re-
venue.

XXXIII. If any person shall, by force or violence, assault, resist, oppose, molest, hinder, or obstruct any revenue officer or other person employed as aforesaid in the exercise of his office, or any person acting in his aid or assistance, such person being thereof convicted before any Court of Record in this Island, shall pay a fine not exceeding one hundred pounds, nor less than fifty pounds, in the discretion of the Court before whom such offender shall be tried; which fine shall be paid into the treasury of this Island, for the use of the Government; and in case such fine shall not be paid, such person shall be imprisoned for a term not exceeding twelve months, nor less than three months, at the discretion of the Court.

Where master's
report inwards
does not agree
with clearance
from port of
shipment he
shall be liable
to a penalty,
unless he make
affidavit, if re-
quired.

XXXIV. In any case where the numbers or quantities of goods, wares and merchandise liable to duty, and specified in the report or manifest made at the office of any collector of impost at any port of entry in this Island, shall be found not to agree with the report, manifest or clearance made at the port of shipment, but there shall appear to be a deficiency in the numbers or quantities of goods, wares or merchandise reported as entered before the said Collector and those described in the report or clearance at the port of shipment, the master of any ship or vessel, so making such deficient report, shall

forfeit and pay a penalty not exceeding fifty pounds, unless such master or mate, in case there shall be such officer belonging to the said ship or vessel, shall, if required, make and subscribe the following oath, varied to suit the circumstances of each case, in addition to the oath hereinbefore directed to be taken by the said master, and which oath the said Collector is hereby authorized to administer, that is to say:—

“I, *A. B.*, master (or mate) of the ship or vessel called the _____ make oath and say, that the following articles mentioned and described in the manifest or clearance of the said vessel at _____ to wit (here describe the packages), were omitted or neglected to be shipped on board the said vessel, called the _____ at _____ aforesaid, and that the same never came into my possession, care or custody, to the best of my knowledge and belief, for the purpose of being laden on board the said _____ at _____ aforesaid.

Form of such affidavit.

“So help me God.”

XXXV. Any person or persons who shall import or bring into this Island any wines, gin, brandy, rum, or other distilled spirituous liquors, molasses, sugar, tea, tobacco, or any other kind or description of goods, wares or merchandise, shall immediately produce to the Collector of impost for the place wherein the importations shall be made, an entry, in writing, stating the quantity and description of all the dutiable goods and merchandise imported, the total amount of the original invoice of such goods, or, if required, the specific value of each article, or the specific value of any quantity of each article imported, the vessel's name in which the same were imported to this Island, and the name of the master of such vessel; and the importer or person making such entry shall, at the same time, produce to the said Collector, or other proper officer, the original invoice of such goods, and certify on oath, that they are the original invoices of such goods, and contain all the dutiable goods imported by or belonging to him in the vessel specified in the entry, to the best of his belief, or if he has not or cannot procure the original invoices as aforesaid, he shall make oath thereof, and account for his want of the same; and shall also state on oath, what he believes to be the current value of the goods, either specifically or in the aggregate, as the Collector may see fit, at the place whence they were imported, or as near as can be ascertained; and shall make and subscribe the following oath, varied as the Collector may think necessary, to suit the particular circumstances of the case, which oath the said Collector is hereby authorized and empowered to administer:—

Importer of dutiable articles to produce to collector of impost an entry in writing, &c.

Requisites of such entry.

“I, *A. B.*, of _____ in the County of _____ do swear, that the entry now made and subscribed by me is just and true in every respect and particular, to the best of my knowledge and belief. _____ So help me God.”

Form of importer's affidavit.

How affidavit to be made, in case goods belong to residents.

And if the goods so imported shall belong to any person or persons residing within this Island, then the person producing to the Collector the entry thereof as aforesaid, shall only be obliged to make such part of the affidavit, as relates to the quantity, value and ownership of such goods, wares and merchandise.

Importer of goods, &c., into Charlottetown, in certain cases, shall make and subscribe a certified account or summary of such entry.

XXXVI. Where any goods or articles shall be imported into the port of Charlottetown, in this Island, the duty on which shall not exceed ten pounds, the person or persons importing the same shall, in addition to the other entry or entries required by this Act, at the same time make and subscribe to a certified account or general summary of such entry, containing in words, at length, the name of the person importing or making the entry, the name of the ship or vessel to which the entry relates, and of the master thereof, and of the place or country from which she comes, the total amount of duty paid, and the date of the entry, in the following form, varied to meet the circumstances of the case, that is to say:—

“ Excise Office, Charlottetown.

“ Entry made this day of 18 , by *A. B.*, (name of importer, consignee or agent), from on board of (name of vessel), whereof *C. D.* is master, arrived from (name of port from which vessel sailed), amount of duty paid (here set out amount of duty paid). *A. B.*, importer, (or, as the case may be).

Collector's certificate thereto.

“ I certify that the above is a correct account or summary of an entry made in my office this day of 18
“ *E. F.*, Collector of excise.”

After permit to land goods granted, &c., person making entry shall take certified account and permit to the Treasurer's office.

XXXVII. And after a permit to land the goods or articles comprised in the entry shall have been made out, and granted to the person importing or making the entry, by the Collector of impost for the port of Charlottetown, in the manner and subject to the regulations and restrictions contained in this or any other Act of the Legislature of this Island, now or hereafter to be in force, relating thereto, the person or persons making the entry shall take the said certified account or summary thereof, together with the permit, to the office of the Treasurer, and there file the said certified account or summary, and the Treasurer shall thereupon sign his name on the back of the permit; and it shall not be lawful for any person or persons to land any goods or articles, whereon the duty does not exceed ten pounds, in the port of Charlottetown, until the said permit therefor shall have been first countersigned by the Treasurer as aforesaid; and the returns and accounts of spirits distilled or extracted, and tobacco manufactured, in this Island, or any other dutiable article, and of the duties to be paid thereon, shall be made with the said Collector of im-

Treasurer to endorse permit.

post, where by law they are required to be made with him, in duplicate; and the duplicate copies of such returns and accounts, signed by the said Collector, shall, immediately after the same has been made, be filed with the Treasurer, by the person or persons making or returning the same.

XXXVIII. The Treasurer shall, after each certified account or summary of entry, or duplicate return or account shall have been filed with him as aforesaid, enter a particular account thereof in a book to be by him kept for that purpose; and shall, on every occasion, when the said Collector of impost of Charlottetown accounts with him, as by law directed, produce the said certified accounts, or summary of entries, and duplicate returns and accounts, and check and compare the same with the accounts rendered by the said Collector, and the moneys and securities paid over by him.

Treasurer to enter a particular account of such duplicate entries or returns in a book, &c.

XXXIX. When any ship or vessel having on board any dutiable goods or merchandise, shall arrive at any port or place in this Island, although the master, owner or importer, consignee or other person, shall not wish to land the same, or only a portion thereof, in such port or place, but to carry the whole of the same, or the remaining part thereof, to some other port or place in this Island, yet it shall, in such case, be lawful for the master, owner, importer, agent or other person, to enter the whole of the goods or articles, if he thinks proper, and in such, the first port of entry or report, to pay or secure the whole of the duties due on the goods or articles entered; and the Collector of impost for such port or harbor is hereby authorized to grant a permit to land such goods or articles in any other port or harbor in this Island, to be named therein, and shall certify on the back thereof that the duties on the goods or articles named therein have been paid or secured, which permit shall, in the usual manner, be countersigned by the Treasurer, and shall entitle the person, to whom the same may be granted, to continue on board such ship or vessel, and to carry away therein such goods and articles, and thereafter to land the same at the port or harbor named in the permit, on producing and giving up the same to the Collector of impost or other officer there, having authority to receive, collect, or protect the revenue at the port or place specified in the permit.

Goods may be entered and duties paid, at the first port of entry.

Permit to be countersigned by treasurer in usual manner.

XL. When any dutiable articles are intended to be transmitted or shipped from one port or place in this Island, by sea or land, to another, it shall be the duty of the Collector of impost, or his deputy, or other person appointed to collect the revenue at the port of shipment, upon application being made by the owner or shipper for such purpose, and he is hereby authorized, if he is satisfied, that the duty on said goods

Mode of proceeding, when dutiable articles are shipped from one port to another in this Island.

and articles has been paid or secured, to grant a certificate thereof, and a permit to land the same, which shall entitle the owner or shipper to transmit and land the said goods in the port or harbor specified in the permit, on producing and giving up the permit and certificate to the Collector of impost, or other officer authorized to collect or protect the revenue at at the said last mentioned port or harbor.

Mode of procedure where duties not paid or secured within a reasonable time after arrival.

Duties not being paid within three months after landing, &c., a portion of such goods may be sold to pay same.

Master of vessel refusing to deliver goods to collector, under last section, liable to a penalty.

Collector of impost, or other officer may open all goods and packages.

Duty of Collector when he

XLI. The master of any ship or vessel arriving in any port or place in this Island, having on board any goods, wares, or merchandise, and where the owner or consignee, or person concerned therein, does not pay or secure the duties upon such goods, within a reasonable time after her arrival in said port or place, or where such importer or consignee or person is absent from such place, shall, and he is hereby required to deliver over such goods to the Collector of impost, for the security of such duties, which Collector is hereby empowered and directed to receive and keep, and is hereby empowered to take possession of and warehouse the said goods, at the owner's or consignee's risk and expense, until the duties thereon, together with the expenses and just and reasonable charges for storage and custody have been paid; and if the duties due and payable on such goods, and other amounts and charges aforesaid, shall not be paid or secured by the owner or consignee thereof, within three months from the time of landing such goods, then and in such case the said Collector is hereby empowered, if he shall see fit, to sell and dispose of so much thereof as shall be sufficient to pay the duties due thereon, and also the freight, charge of storage, and all expenses incurred by the sale thereof, or otherwise, or shall detain the said goods for such longer period, and otherwise deal with the same, as such Collector in his discretion may think fit.

XLII. The master of any ship or vessel refusing to deliver such goods to the Collector, on request, or opposing, or otherwise hindering the said Collector or other proper officer, in carrying out the provisions of the last preceding section, shall forfeit and pay a fine of one hundred pounds.

XLIII. It shall be lawful for any Collector of impost, or for any person, when directed by such Collector, to open all packages, and fully to examine all goods therein contained; and if the goods so examined shall be found to correspond in all respects with the cocket or clearance papers, invoice or entry of the importer or person entering the same, such goods shall be repacked, at the charge of the Collector, and such charge may be repaid the said Collector by the Lieutenant Governor in Council, if they shall see fit to allow the same.

XLV. On any person entering any goods, wares or merchandise, for duty, at any excise office within this Island, at a

less value than may appear to the Collector of Excise to be the real value thereof, it shall and may be lawful for the said Collector to detain such goods, wares and merchandise, within five days after the landing thereof, and the said Collector shall pay to the importer or owner thereof, on demand, the value declared on such aforesaid entry, together with the costs and charges of importation, and an addition of ten pounds *per centum* thereon, which shall be a full satisfaction for such goods to the importer or owner thereof; and it shall be lawful for the said Collector, and he is hereby directed to cause the said goods to be publicly sold to the best advantage; and out of the proceeds thereof, the money so as aforesaid directed to be paid for such goods shall be reimbursed to such Collector; and after deducting from the overplus, if any, the expenses incurred on account of the detention, securing and sale of such goods, one moiety of the balance shall be paid into the treasury, and the other to the said Collector.

considers any goods have been entered below their value, &c.

XLVI. All wines, rum, gin, brandy, or other distilled spirituous liquors, goods, wares and merchandise, imported into this Island, in boats, from any of the neighboring Colonies, shall be subject to the same duties, regulations, fines and forfeitures, as if the same were imported in vessels of greater burden.

Articles imported in boats to be liable to duty.

XLVII. If any article liable to duty shall be landed from on board any ship, vessel or boat, after report shall have been made, other than such as shall have been specified in such report or manifest, as directed to be made by this Act, all such articles, or the value thereof, estimated at the then highest value, shall be, and the same are hereby declared forfeited, and shall and may be seized by any Collector of impost in this Island, or any other revenue officer, landwaiter or preventive officer; and if such articles shall be concealed or destroyed, so that the same cannot be seized, the master or owner of the said vessel or boat, or the owner thereof, or the importer, owner or receiver of such articles so concealed or destroyed, shall, on being duly convicted thereof, pay the value of the same, estimated as aforesaid.

Articles landed before duties paid, &c. to be forfeited.

If concealed, &c., master of vessel or owner liable for their value.

XLVIII. If any goods, wares, or merchandise whatsoever, shall be seized for nonpayment of duties, or any other cause of forfeiture, and any dispute shall arise whether the duties have been paid for the same, or whether the same shall have been lawfully imported, or lawfully laden or exported, the proof shall be on the owners or claimants of such goods, wares or merchandise, and not on the officer who shall seize and detain the same.

In case of dispute as to whether goods seized have been legally imported, onus of proof to be on owner or claimant.

XLIX. When any goods, wares or merchandise, liable to the payment of duty, shall have arrived at any port or place

When consignee has no

invoice of the goods, collector may grant permit to land same.

in this Island, before the importer or consignee thereof shall have received an account or invoice of the same, the Collector for the district is hereby required, on request of such importer or consignee, to grant a permit for the same to be landed, or inspected on board: and the same being appraised as to the prime cost thereof, when landed, by two competent and disinterested persons, on oath made before such Collector, shall pay duty according to such appraisement; provided always, that if for any goods, wares or merchandise so imported, the importer shall be entitled to a drawback of any duties imposed on such goods in Great Britain or Ireland, or any British Colony, or elsewhere, the amount of such drawback shall be deducted from the invoice value of such goods, and the duties shall be calculated on such goods, after such deduction, unless the amount of such drawback shall have been previously taken into consideration in the making out of the invoice.

Lt. Governor to appoint preventive officer, &c. at the different ports, &c. of this Island.

L. The Lieutenant Governor or other Administrator of the Government of this Island, for the time being, by and with the advice of Her Majesty's Executive Council of this Island, shall and is hereby required to commission and appoint so many persons as landwaiters and preventive officers, as may be deemed necessary, in and near to the different harbors, ports and places where goods may be landed throughout this Island, who shall have, and be entitled to exercise the same power and authority, in making seizures of all prohibited and unlawfully imported goods brought or attempted to be brought, imported or landed within this Island, and of all ships, boats, vessels, vehicles, horses, and cattle, employed or used in such fraudulent importation or attempted importation, and also in bringing the same to condemnation and sale, as any Collector of the duties of impost within this Island can or may, under the provisions of this or any other Act, now or hereafter to be in force, use or exercise; and such landwaiters and preventive officers shall have further power, and they are hereby authorized to go on board of any ship or vessel that may be anchored or hovering within the distance of three miles of any part of the coast of this Island; and it shall be lawful for such preventive officers to exercise the same powers and authority, on board such ship or vessel, as is or may be given to the Collectors of impost, under this Act, or any other Act or Acts of the General Assembly hereafter to be in force.

Their powers.

In addition to other preventive officers appointed for Charlottetown, there shall be

LI. And in addition to the number of preventive officers who may be appointed for Charlottetown, under the last preceding section of this Act, the said Lieutenant Governor, or other Administrator of the Government for the time being, in Council, shall appoint two preventive officers for the said port of Charlottetown; and such preventive officers shall receive

and be paid each the sum of fifty pounds *per annum*, for their services, in lieu of the daily allowance by law made to preventive officers; and it shall be the duty of such salaried preventive officers, at all times whilst in office, to exercise their utmost diligence and vigilance in the prevention and detection of smuggling, and the illegal landing and importation of goods into this Island, and for the detection and prevention of frauds of any kind, committed or attempted to be committed on the revenue; and such salaried officers, or either of them, shall use and have all the rights, powers, profits and authorities by this Act given to other preventive officers, and may exercise and use the said rights, powers and authorities in any port or place in this Island, and shall at all times strictly obey and conform to the counsel, directions and orders of the Collector of impost for Charlottetown, for the time being.

two receiving a salary each of £50 *per annum*.

LII. Every Collector of impost is hereby directed and required, on being requested so to do by the Executive Government of this Island, forthwith to furnish to the Government a list of the names of such persons, within their districts, as they consider most fit and proper, to act as landwaiters and preventive officers; and out of such persons, the Lieutenant Governor and Council shall, if they see fit, select and appoint so many landwaiters and preventive officers as may be deemed necessary.

Collectors to furnish list of suitable persons to be preventive officers.

LIV. It shall be lawful for the Collector of impost at Charlottetown, and the several Collectors of impost throughout the Island, or his or their assistant or deputies, to place an officer, appointed as aforesaid, during the day, and also, when necessary, an officer during the night, on board of any vessel he may deem necessary, whilst discharging her cargo; which officer shall be paid by the Collector of impost employing him, a reasonable sum, not exceeding four shillings *per diem*, and a like sum for each night, when required, for such their attendance on board such vessels, to be paid out of the moneys in his hands, arising for rates and duties collected by him; and it shall be the duty of such officer to keep a true account of all articles landed, and to compare the same with the cocket or manifest of the cargo, and no part of the cargo shall be discharged in his absence, under a penalty of fifty pounds, and a forfeiture of the goods so landed; and a sufficient time, in the discretion of the Collector, shall be allowed by the said impost Collector for discharging each cargo, not exceeding ten working days after so placing an officer on board each day, to be computed from the first day of April to the first day of October in each year, both days inclusive, to commence at five o'clock in the forenoon, and conclude at seven o'clock in the afternoon; and between the first day of October and the first day of April, to commence at seven

An officer may be placed on board vessel discharging during the day and another during the night.

Officer's duty.

o'clock in the forenoon, and conclude at five o'clock in the afternoon; and if the cargo be not discharged within such time, then all charges afterwards for the officer's attendance shall be paid and borne by the master or owner of the vessel so discharging.

Mode of recovering officer's pay.

LVI. In the event of the wages of any officer who may have attended on board, as aforesaid, not being paid after his services have been performed, then it shall be lawful for the officer to sue for and recover the same, by summons or capias, in manner provided for the recovery of small debts.

Preventive officers, &c. to be sworn.

LVII. Before any such landwaiter or preventive officer shall enter upon the duties of his office, he shall take the oath as prescribed in the form of the schedule to this Act marked (B), which the Collector of impost, for the district wherein the landwaiter may reside, shall administer.

Power of revenue officer to stop and examine carts, &c. for smuggled goods.

LVIII. It shall be lawful for any Collector of impost, or other officer employed for the prevention of smuggling and the protection of the revenue, to stop and examine any cart, waggon, sleigh, or other means of conveyance, for the purpose of ascertaining whether any smuggled goods are contained therein; and if no such goods be found, the officer or other person stopping and examining any such vehicles shall not, on account of such stoppage and search, be liable to any action at law; and all persons driving or conducting such carts, vehicles or means of conveyance refusing to stop, when required so to do in the Queen's name, shall forfeit a sum not exceeding ten pounds.

Persons procuring others to land prohibited goods, &c. how punished.

LIX. Any person who shall, by any means, procure or hire any person or persons, or who shall depute or authorize any person or persons to procure or hire any other person or persons to assemble for the purpose of being concerned in the landing or unshipping, or carrying, or conveying, any goods prohibited to be imported, or the duties for which have not been paid or secured, shall, for every such offence, forfeit and pay a sum not exceeding fifty pounds; and every person who shall stave, break or otherwise destroy any goods, to prevent the seizure thereof, or the securing the same, shall forfeit, for every such offence, a sum not exceeding fifty pounds.

General jurisdiction of preventive officers and collectors, &c.

LX. All Collectors of impost, or their assistants or deputies, landwaiters, or other revenue officers, now or hereafter to be appointed, shall have jurisdiction, power and authority, and may exercise the powers vested in them, as such officers, in all parts and ports in this Island, in the same manner and under the same regulations as they may or can use, or exercise the same, or act in the port, harbor or place to which they may have been severally and respectively appointed, any thing herein contained to the contrary notwithstanding.

LXI. During the continuance of this Act, it shall be lawful for the Lieutenant Governor or other Administrator of the Government for the time being, to grant licenses to distil, extract or manufacture spirituous liquors in this Island, which licenses shall be in force from the date thereof until the first day of May, one thousand eight hundred and fifty-seven, and the rate or price of such licenses shall be five pounds, which shall be paid into the treasury, for the use of Her Majesty's Government of this Island.

Licenses to distil spirituous liquors may be granted by Lt. Governor.

LXII. It shall be unlawful for any person, during the continuance of this Act, to distil, extract or manufacture spirituous liquors in this Island, without having first obtained such license as aforesaid; and any person or persons who shall so distil, extract or manufacture spirituous liquors, without first having obtained a license therefor, shall, for each and every offence, forfeit and pay to Her Majesty a fine not exceeding fifty pounds, to be paid into the treasury of this Island, for the use of Her Majesty's Government thereof.

Penalty on person distilling, &c., spirituous liquors without license.

LXIII. For the better detecting persons distilling, extracting or manufacturing spirituous liquors, without license as aforesaid, and also the better to enable the officers of the revenue collecting the duties imposed by this or any other Act of the Legislature on the distillation, extraction, manufacturing or importation of such spirituous liquors, or other dutiable articles, it shall be lawful for any Collector of impost, Controller of the navigation laws, preventive officer, or other person appointed for collecting, securing or protecting the revenue, and he is hereby authorized to enter into and upon all houses or other buildings and premises wherein he may have suspicion, and of the sufficiency of such suspicion, the officer shall be the sole judge, that spirituous liquors may have lately been or are being distilled, extracted or manufactured, without license or without the duties imposed by this or any other Act having been paid or secured therefor, or wherein he may suspect any goods, articles or spirituous liquors liable to duty under this Act, and illegally imported and landed, are; and if, on investigation, he shall find such to have been or to be the case, he shall, and he is hereby authorized and required to seize and carry away the same, and sell the same at public auction, within fifteen days after such seizure, unless the owner of the spirits or other dutiable articles shall prove, to the satisfaction of the officer making the seizure, that no breach of this or any other Act in force, relating to the distilling, extracting or manufacturing of spirituous liquors, has been made, or that the duties payable in respect thereof have been paid; and the officer making the seizure shall be entitled to the same proportion of the amount of the sale, as in the fifty-fourth section of this Act is awarded preventive officers and land-

Powers of entry and search given to collectors, &c., to detect illicit distillation or smuggling, &c.

waiters making seizures, and a similar amount to that also pointed out in the said section of this Act, shall be paid into the treasury of this Island, for the use of Her Majesty's Government thereof.

Penalty on person obstructing officers in the execution of their duties.

LXIV. If any person shall, by force, violence, or otherwise, assault, resist, molest, oppose, hinder, or obstruct any officer or other person in the execution of his duties, or any of the powers by the last preceding section of this Act conferred or imposed upon him, he shall forfeit and pay to Her Majesty a fine not exceeding fifty pounds, to be paid into the treasury of this Island, for the use of Her Majesty's Government thereof.

No license to distil to be granted until duty therefor has been paid.

LXV. No person shall be allowed to obtain a license to distil spirituous liquors until such person shall have first paid into the treasury the amount of license duty, being five pounds as aforesaid; and the Treasurer shall give a receipt therefor, which the person applying for a license shall produce on making such application; and the Treasurer shall publish a list of the licenses so granted in the *Royal Gazette* newspaper quarterly.

Amount of duty payable on home distilled spirits.

LXVI. After the passing of this Act, the duty to be levied and paid on spirituous liquors manufactured, extracted, or distilled in this Island, shall be as follows, that is to say: on spirituous liquors manufactured or distilled from barley or any other grain, the sum of six pence * *per* gallon; and on spirituous liquors manufactured or distilled from molasses, the sum of one shilling * *per* gallon: provided always, that there shall be allowed and paid on all such distilled spirituous liquors so manufactured within this Island, and exported therefrom, a drawback equal in amount to seven eighths † of the whole duty paid or secured to be paid on such distilled spirituous liquors; subject, nevertheless, to all the regulations and conditions prescribed by this Act on the exportation of wine, gin, brandy, rum, or other distilled spirituous liquors from this Island.

Person claiming drawback to make oath before collector.

LXIX. No person shall be entitled to a drawback on any spirits made in this Island, unless the person claiming the same shall make and subscribe, before the Collector of impost for the proper district, an oath in the form following, which oath the aforesaid Collector shall administer:—

Form of such oath.

"I, A. B., do swear that the entire quantity of liquor shipped by me for exportation, on board the ship or vessel, called the _____ whereof _____ is master, bound for the port _____

* These duties are altered by Act 25 Vic., c. 7, s. 2, to nine pence, and one shilling and three pence respectively.

† See 25 Vic., c. 7, sec. 12, which grants a drawback for the whole amount of duties paid or secured.

of in was manufactured at the distillery
 owned by me, at and was entered by me in the im-
 post office, at and is of the same strength as that
 for which the duty has been paid or secured, and that the
 duties of excise, directed to be levied thereon by the laws of
 this Island, have been actually paid or secured, agreeably to
 the value in the annexed return; and that I have shewn the
 casks or vessels in which the said liquor is contained to the
 officer appointed to examine the same, who has attended to
 the shipment thereof; and that neither the whole nor any part
 of said liquor is intended to be fraudulently relanded, brought
 back, sold, exchanged or consumed in any place within this
 Island or the territories thereto belonging.

"So help me God."

LXX. The owner of any tobacco factory, or other person
 or persons, who shall manufacture tobacco in this Island, and
 in case, any such factory shall be carried on or conducted by
 any foreman or servant, such owner, foreman, servant, or other
 person shall, on the first Monday in January, April, July and
 October, in each year, during the continuance of this Act,
 render a just and true account, in writing, to the nearest
 Collector of impost and excise, of the quantity of tobacco
 made by him for the quarter then last past; and shall make
 and subscribe before the said Collector, the following oath,
 which oath he is hereby empowered and required to adminis-
 ter:—

Owners, &c., of
 tobacco manu-
 factory to ren-
 der a quarterly
 account of to-
 bacco manufac-
 tured by them.

"I, A. B., do swear, that the account which I have now
 rendered and subscribed contains a just and true account of
 all the tobacco manufactured by me, or any person or persons
 under me, since the day of last past.

Form of oath
 on rendering
 such account.

"So help me God."

And the said owner, master, foreman or servant, after making
 and subscribing the said oath; shall forthwith pay or secure
 unto the said Collector of impost and excise the amount of
 duty by this Act imposed on such tobacco so manufactured by
 him, during the quarter then last past, as aforesaid; the said
 duties to be paid or secured in the way and manner, and un-
 der the same regulations, as other duties are by this Act di-
 rected to be paid or secured on the entry and importation of
 dutiable goods, wares and merchandise.

LXXI. If any person shall neglect to make return of the
 quantity of tobacco so by him manufactured as aforesaid, or
 shall refuse to pay or secure the amount of duties as shall then
 be due thereon as aforesaid, such person shall, for each and
 every offence, forfeit and pay the sum of one hundred
 pounds.

Persons neglec-
 ting to make
 return, liable
 to a penalty.

Drawback on tobacco manufactured in this Island, how obtained.

Form of oath to be taken on applying for drawback.

LXXII. No person shall be entitled to a drawback on any tobacco manufactured in this Island, unless the person making the same shall make and subscribe, before the nearest Collector of impost, the following oath:—

“I, *A. B.*, do swear, that the entire quantity of tobacco shipped by me, for exportation, on board the ship or vessel called the _____ whereof _____ is master, bound for the port of _____ in _____ was manufactured at _____ in the factory owned by _____ and that the duties of excise, directed to be levied thereon by the laws of this Island, have been actually paid or secured, agreeably to the value in the annexed statement, and that I have shewn the kegs or packages containing the said tobacco to the officer appointed to examine the same, who has attended to the shipment thereof, and that the same hath been truly and regularly entered at this office; and that neither the whole nor any part of the said tobacco is intended to be fraudulently relanded, brought back, sold, bartered, exchanged or consumed in any port or place within this Island, or the territories thereunto belonging.”
“So help me God.”

IA. Governor, &c., when necessary, to appoint Collector, &c., for Charlottetown and other ports.

LXXIII. The Lieutenant Governor or other Administrator of the Government for the time being, by and with the advice of the Executive Council, shall, from time to time, as occasion may require, appoint a fit and proper person to be Collector of impost for the port of Charlottetown, and for every other port or place in this Island, where it may be deemed necessary for the effectually carrying this Act into execution; and each and every of which persons appointed as aforesaid shall, before entering into office, give approved security to Her Majesty, in such amount as the Lieutenant Governor and Council may judge sufficient, to effect the faithful discharge of the trust reposed in such Collectors of impost; and such Collectors of impost shall have power and authority to collect, demand and receive the several rates and duties imposed by this Act; and in the presence of such Collectors of impost, landwaiters or preventive officers, or other duly appointed officers of the revenue, or any or either of them, all wine, gin, brandy, rum or other distilled spirituous liquors, tea, sugar, molasses, or any other kind of goods, wares or merchandise, shall be landed at the said several ports, and may be gauged or otherwise measured, opened or inspected by such officers, at the time of such landing; and all wine, gin, brandy, rum or other distilled spirituous liquors, or other goods, wares or merchandise whatever, which shall or may be landed in this Island contrary to the provisions of this Act, or the true intent and meaning thereof, shall be forfeited, and shall and may be seized by such Collectors or other duly appointed revenue officers.

LXXIV. The several Collectors of impost for the time being, throughout this Island, shall render a just and true account of, and pay into the treasury of this Island, all such moneys as shall or may be by them respectively received under and by virtue of the provisions of this Act, within thirty days next after the end of each quarter, on penalty of forfeiting fifty pounds for such neglect; and the Collector of impost for Charlottetown, for the time being, shall and is hereby required, to pay all moneys in his hands, arising from duties received at his office, at least once a month, into the office of the Treasurer of this Island.

Collector of impost in the country to account with treasurer quarterly for moneys received, &c.

LXXV. All Collectors of impost now or hereafter to be appointed, shall be paid five pounds *per centum* on all moneys received and paid over by such Collectors of impost, under this Act; except the Collector of impost for Charlottetown, who is already provided for by salary.

Allowance to Collectors of impost in the country.

LXXVI. Any Collector of impost, except the Collector for Charlottetown, may appoint a deputy or clerk, and such clerk or deputy is hereby authorized to perform the duties, and is invested with all the powers of the said Collector, as prescribed in and by this Act, or any other Act of this Island, now or hereafter to be in force, whereby any duty of impost is levied and imposed, and wherein the same is directed to be paid and secured.

Country Collectors may appoint deputies.

LXXVII. Every such Collector of impost as aforesaid, who shall hereafter appoint any such clerk or deputy, shall require him to be duly sworn faithfully and impartially to perform the duties of his office; and every such Collector of impost and his sureties shall be, and are hereby declared to be responsible and liable for all and every neglect of duty or improper conduct, on the part of any such clerk or deputy appointed by him, in discharge of his duty as aforesaid.

Collectors, &c., to be responsible for deputies.

LXXVIII. All the rates, duties and impositions imposed by this Act, or any other Act of the General Assembly, now or hereafter to be in force, for the like purposes, shall be paid in lawful current money of this Island, by the importer of or other person interested in any wine, rum, brandy, or other spirituous liquors, goods, wares or merchandise whatsoever, unto the Collector of impost for the time being, authorized to receive the same, at or before the landing thereof: provided always, that when the duties to be paid by any importer or other person, on any goods, wares, and merchandise, shall amount to a sum exceeding ten pounds, the said Collector is hereby authorized to give credit for the payment thereof for the space of three months; and if the said duties shall exceed the sum of fifty pounds, and not amount to more than

Duties imposed by this Act to be paid in currency, before landing articles of under £10.

one hundred pounds, credit shall be given for the payment thereof for the space of six months;* and if the said duties shall exceed the sum of one hundred pounds, credit shall be given for the payment thereof for the space of twelve months:* provided always, that before the landing of the said goods, sufficient security be given for the payment, within the time so limited, of the said duties, as hereinafter directed.

Collector to take recognizance for payment of duties, when credit given.

Form of recognizance.

LXXIX. When any Collector of impost shall give credit for any duties, as directed in the last preceding section of this Act, to any person or persons whomsoever, such Collector shall, in every such instance, cause the person or persons so credited as aforesaid, to enter into a recognizance to Her Majesty the Queen, in double the amount of such duties, for the payment of the said duties; and such recognizance shall be signed and acknowledged by the person or persons so entering into the same, with one good and sufficient security, before the said Collector, who shall take and subscribe such acknowledgment; and every such recognizance shall be good and valid in law, and shall not be void or voidable for or on account of any defect therein, and shall be in the form marked (C), in the schedule to this Act annexed contained; and if the sum, in the condition of such recognizance mentioned, shall not be paid at the time and in manner therein specified and appointed, the same shall bear lawful interest† from the day so named and appointed for the payment thereof; and the said Collector shall also, and at the same time, take from the said principal and his surety a warrant of attorney,‡ in manner and form as directed by the first section of the Act of the eleventh year of the reign of George the Fourth, chapter the ninth, intituled “An Act for the further security and recovery of moneys due to His Majesty upon duties of impost and excise, and for regulating the offices of Treasurer and Collector of impost:” provided always, that nothing in this or any other Act contained shall be held or construed to entitle or give any person or persons any right or claim to a longer term of credit, for the amount of any bond or recognizance, than the time in such bond or recognizance mentioned for the payment thereof.

Mode of proceeding, when, on gauging casks, quantity does not agree with entry.

LXXX. If it should happen, on the landing of any wine, gin, brandy, or other spirituous liquors, or other goods, wares or merchandise, whatsoever, liable to duty, and on gauging, weighing or measuring the same, a different quantity from

* Altered by 25 Vic. c. 7, sec. 20, which gives a credit of three months for duties exceeding £10, and under £30, and six months for sums exceeding £30.

† See 25 Vic. c. 7, sec. 20, which makes interest payable from date of bond.

‡ For the form of Warrant of Attorney see 25 Vic. cap. 7, sec. 21, and schedule, which virtually repeals this portion of the section.

that entered should appear, the Collector for the port or place is hereby required to endorse, on the security given or entered into on account of such goods, the difference, either way, so ascertained; and the endorsement so made shall be signed by the Collector before whom entry was made, and such endorsement is hereby declared to be part of the defeazance or condition to any recognizance or security so endorsed as aforesaid.

LXXXII. All fines, forfeitures and penalties, arising by operation of this Act, shall be sued for and recovered, together with costs, at the suit of her Majesty's Attorney General, or other chief law officer of the Crown in this Island, in her Majesty's Supreme Court of Judicature or Court of Vice Admiralty of this Island; and the moneys arising from such penalties shall be applied, one half to and for the purposes for which the said duties originated, and the other shall be paid to him or them who shall inform, seize or sue for the same.

Fines, &c., under this Act, in what Courts recoverable, and how.

LXXXIII. Any person who shall consider himself aggrieved by the judgment of any inferior Court, in any action under this Act, may appeal therefrom to the then next sitting of the Supreme Court of Judicature, on giving security to prosecute such appeal, and complying with the requirement, in like cases, of any Act, at the time in force, for the recovery of small debts.

Persons aggrieved may appeal to Supreme Court.

LXXXIV. If it shall happen that a witness, required to support any suit or information instituted under this Act, shall be obliged to leave this Island before the day of trial, it shall be lawful for any Judge of the Supreme Court of Judicature, upon notice given to the defendant in such suit, to take the deposition of said witness *de bene esse*, in writing, which deposition being so taken and subscribed by the said Judge, may be admitted as evidence on the trial of the cause or suit.

Depositions of witnesses, *de bene esse*, taken before Judge, admissible at trial under this Act.

LXXXV. No writ shall be sued out against nor copy of process served on any Collector of impost or other officer of the revenue, for any thing done in the exercise of his office, whether before or after the passing of this Act, until one calendar month after notice in writing shall have been delivered to him or left at his usual place of abode, by the attorney or agent of the party who intends to sue out such writ or process, in which notice shall be clearly stated the cause of action, the name and place of abode of the person who is to bring such action, and the name and place of abode of the attorney or agent; and no evidence of any cause of action shall be produced, except of such as shall be contained in such notice; and no verdict shall be given for the plaintiff, unless he shall prove on the trial, that such notice was given, and in default of such proof, verdict shall be given for defendant with costs.

No revenue officer liable to action for any thing done in exercise of his office, until one calendar month after notice in writing given to him, &c.

Such actions to be brought within three months, &c.

LXXXVI. Every such action shall be brought within three calendar months after the cause thereof, and shall be laid and tried in the County where the acts were committed ; and the defendant may plead the general issue, and give the special matter in evidence ; and if the plaintiff shall become nonsuit, or shall discontinue the action, or if upon a verdict or demurrer, a judgment shall be given against the plaintiff, the defendant shall receive treble costs, and have such remedy for the same, as any defendant can have in any other cases where costs are given by law.

On certificate of Judge, &c., of probable cause of seizure, officer not liable to costs, but only nominal damages, &c., besides value of articles seized, &c.

LXXXVII. In case any information or suit shall be brought to trial, on account of any seizure made under this or any other Act relating to the revenue, and a verdict shall be found for the claimant thereof, and the Judge or Court, before whom the same shall have been tried, shall certify on the record, that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action, suit or prosecution on account of such seizure ; and if any action, suit or prosecution shall be brought against any person on account of such seizure, and a verdict be therein given against the defendant, the plaintiff, beside the thing seized or value thereof, shall not be entitled to more than two pence damages, nor to any costs of suit, nor shall defendant be paid more than one shilling.

Officer may tender amends before action, and plead same.

LXXXVIII. It shall be lawful for such officer, within one calendar month after such notice, to tender amends to the party complaining or his agent, and to plead such tender in bar to any action, together with other pleas ; and if the jury shall find the tender of amends sufficient, they shall give a verdict for the defendant in such case ; and in case, the plaintiff shall become nonsuit, or shall discontinue the action, or judgment shall be given for defendant upon demurrer, then such defendant shall be entitled to the like costs as he would have been entitled to, in case he had pleaded the general issue only : provided always, that it shall and may be lawful for such defendant, by leave of the Court, when such action shall be brought, at any time before issue joined, to pay money into Court, as in other actions.

Officer may pay money into Court, &c.

If defendant acted on probable cause of seizure, nominal damages to be given to plaintiff.

LXXXIX. In any such action, if the Judge or Court before whom such action shall be tried, shall certify upon the record, that the defendant or defendants in such action acted upon probable cause, the plaintiff in such action shall not be entitled to more than two pence damages, nor costs of suit.

Collectors entitled to writ of assistance.

XC. For the better and more effectually securing and collecting the duties imposed by this Act or any other Act, now or hereafter in force relating to the revenue, it shall be lawful

for any Collector of impost, having a writ of assistance under the seal of Her Majesty's Supreme Court of Judicature of this Island, which writ the Chief Justice or any other Justice of the said Supreme Court is hereby authorized and required to grant, on application for that purpose, to take a Constable or other peace officer, inhabiting near the place, and in the day time to enter into and search any shop, house, cellar, warehouse, room or other place; and in case of resistance to break open doors, chests, trunks and other packages, there to seize, and from thence to bring away goods which have not been duly entered, or the duties thereon secured or paid, and which may be deemed liable to forfeiture under this or any other Act of this Island; and to put and secure the same in some secure place at or near the port where such goods shall be taken as aforesaid.

How writ obtained, and powers of officers thereunder.

XC. All writs of assistance, so issued from the Supreme Court as aforesaid, shall continue and be in force during such time as shall be therein limited and expressed by the Court.

Period for which writs of assistance shall be in force.

XCII. All goods, and all ships, vessels, boats, carriages, vehicles and cattle, liable to forfeiture under this Act, shall be and may be seized and secured by any officer appointed under this Act, or other person employed for that purpose; and any person, who shall in any way hinder, oppose, molest or obstruct any officer or person employed as aforesaid, in the exercise of his office or employment, or in carrying out or enforcing the provisions of this Act, shall, for every such offence, forfeit the sum of one hundred pounds.

Goods, ships, &c., liable to forfeiture, may be seized by officers, under this Act.

XCIII. All Collectors of impost, their assistants or deputies, and all other revenue officers, heretofore appointed under any Act or Acts of this Island hereby repealed, shall, notwithstanding such repeal, be held and deemed to be, and continue in office, and shall have the same powers and authorities, rights, protections and privileges, and be subject to the same rules, regulations, fines, forfeitures and penalties, as if such officers were severally appointed after the passing of this Act, and by virtue thereof.

Collectors of impost and other revenue officers, heretofore appointed, to remain in office hereunder, &c.

XCIV. And whereas it is expedient to empower the Lieutenant Governor in Council to constitute and appoint such ports in this Island, as occasion may require, to be warehousing ports for such goods as may be legally imported into such ports; and it is necessary to make regulations for the appointing of proper warehouses at such ports, and for the lodging and securing of goods therein: Be it therefore enacted, that the Lieutenant Governor, or other Administrator of the Government for the time being, in Council, shall, and he is hereby required forthwith, after the passing of this Act, to constitute and appoint the port of Charlottetown, and such

Lt. Governor in Council to appoint Charlottetown and other necessary ports to be warehousing ports.

other ports or places in this Island as he may deem necessary, to be a warehousing port or ports, for the purposes of this Act; and the Collector of impost for Charlottetown, and the respective Collectors throughout this Island, shall, by notice in writing under his or their hand or hands, appoint, from time to time, such warehouses at Charlottetown, or any other port or place so constituted by the Lieutenant Governor in Council as aforesaid, as shall be approved of by him for the warehousing and securing of goods therein; and also, in such notice, declare what sort of goods may be warehoused therein; and also, by like notice, to alter or revoke any such appointment or declaration: provided always, that every such notice shall be first transmitted to the Colonial Secretary, and if approved of by the Lieutenant Governor in Council, the same shall be published in such manner as the Lieutenant Governor in Council shall direct.

Importers may warehouse goods without paying duty, &c.

XCV. It shall be lawful for the importer of any such goods to warehouse the same in the warehouses so appointed without payment of any duty on the first entry thereof: subject, nevertheless, to the rules, regulations, restrictions and conditions hereinafter contained.

Regulations respecting stowage of goods in warehouse, &c.

XCVI. All goods so warehoused shall be stowed in such parts or divisions of the warehouse, and in such manner as the Collector of impost for the port shall direct, and the warehouse shall be locked and secured in such manner, and shall be opened and visited only at such times, and in the presence of such officers, and under such rules and regulations as the said Collector of impost shall direct; and all such goods, after being landed, upon importation, shall be carried to the warehouse, or shall, after being taken out of the warehouse for exportation, be carried and shipped under such rules and regulations, as the said Collector shall direct.

Bond to be given by importer of goods warehoused.

Condition of bond.

Further condition.

XCVII. Upon the entry of any goods to be warehoused, the importer of such goods, instead of paying down, or otherwise securing the duties thereon, shall enter into recognizance, in the form to this Act marked (D), or to the like effect, in the discretion of the Collector of impost, with one surety, to be approved of by the said Collector, in double the amount of such duties, with condition for the safe depositing of such goods in the warehouse mentioned in such entry, and for the payment of all duties due upon such goods, or for the exportation thereof according to the first account taken of such goods upon the landing of the same; and with a further condition, that no part of the said goods shall be taken out of such warehouse until cleared from thence, upon due entry and payment of duty, or upon entry for exportation, and with further condition, that the whole of such goods shall be cleared

from such warehouse, and the duties upon any deficiency of quantity according to such first account, shall be paid within two years from the date of the first entry thereof; and if, after such bond shall have been given, the goods, or any part thereof, shall be sold or disposed of, so that the original bonder shall be no longer interested therein, or have any control over the same, it shall be lawful for the said Collector of impost to take fresh security, by the bond of the new proprietor or other person having control over such goods, with a sufficient surety as aforesaid, and to cancel the bond given by the original bonder of such goods, or to exonerate him to the extent of the fresh security given.

XCVIII. If any goods which have been entered to be warehoused shall not be duly carried into and deposited in the warehouse or with the owner's sanction, fraudulently concealed in, or afterwards taken out of the warehouse without due entry and clearance, or having been entered and cleared for exportation from the warehouse, shall not be duly carried and shipped, or shall afterwards be relanded, except with the permission of the proper officer, such goods shall be forfeited.

Goods entered to be warehoused, and not deposited in warehouse, &c., to be forfeited.

XCIX. And if the owner or claimant of such goods, or any person with his knowledge, shall fraudulently open the warehouse or gain access to the goods, except in the presence of the proper officer in the execution of his duty, or shall fraudulently adulterate, reduce or increase the strength of liquors, such owner, claimant or person shall, for every offence, forfeit one hundred pounds.

Penalty for fraudulently opening warehouse, adulterating, &c., liquors, therein.

C. Upon the entry and landing of any goods to be warehoused, the proper officer shall take a particular account of the same, and shall mark the contents on each package, and shall enter the same in a book to be kept for that purpose; and no goods which have been so warehoused shall be taken or delivered from the warehouse, except upon due entry, and under the care of the proper officer for exportation, or upon due entry and payment of duty for home use; and whenever the whole of the goods warehoused under any entry shall be cleared from the warehouse, and whenever further time shall be granted for any such goods to remain warehoused, an account shall be made out of the quantity upon which the duties have been paid, and of the quantity exported, and the quantity (to be then ascertained), of the goods still remaining in the warehouse (as the case may be) deducting from the whole the quantity contained in any original package, if any, which may have been abandoned for duties; and if, upon such account, there shall in either case appear to be any deficiency of the original quantity, the duty payable upon the amount of such deficiency shall then be paid.

Officer to take particular account in a book of goods placed in warehouse, &c.

Collector may permit samples to be taken.

CI. It shall be lawful for the Collector of impost for the port, under such regulations as he shall see fit, to permit moderate samples to be taken without entry of any goods so warehoused without payment of duty, except as the same shall eventually become payable, as on a deficiency of the original quantity.

And also permit owner of warehoused goods to sort same, &c., and destroy same, without prejudice to the duty.

CII. It shall be lawful for the Collector of impost for the port, under such regulations as he shall see fit, to permit the proprietor, or other person having control over the goods so warehoused, to sort, separate, pack and repack any such goods, and to make such lawful alterations therein, or arrangements and assortments thereof, as may be necessary for the preservation of such goods, or in order to the sale, shipment or legal disposal of the same; and also to permit any part of such goods so separated to be destroyed, without prejudice to the claim for duty to the whole original quantity of such goods: provided always, that it shall be lawful for any person to abandon any original package for the duties, without being liable to any duty upon the same.

Warehoused goods may be delivered for removal to another warehouse, on recognizance being given.

CIII. All goods warehoused at any warehousing port in this Island, being first duly entered, may be delivered, under the authority of the proper officer, without payment of duty (except on any deficiency thereof), for the purpose of removal to another warehouse, in the same or any other port in this Island, under recognizance (E), to the satisfaction of such officer, for the due arrival and rewarehousing such goods at such other port.

Warehoused goods to be cleared for exportation or consumption, within 2 years after warehousing, otherwise Collector may sell same.

CIV. All goods which have been so warehoused or rewarehoused, shall be duly cleared, either for exportation or for home consumption, within two years from the day of the first entry for the warehousing thereof; and if any such goods be not so cleared, it shall be lawful for the Collector of impost for the port to cause the same to be sold, and the proceeds shall be applied, first to the payment of the duties, next of warehousing rent and other charges, and the overplus, if any, shall be paid to the proprietor: provided always, that the said Collector may grant further time for any such goods to remain warehoused, if he shall see fit to do so.

Recognizance to be given on clearing out warehoused goods for exportation.

CV. Upon the entry outwards of any goods, to be exported from the warehouse, the person entering the same shall give security, by recognizance (F), in treble the duties of importation on such goods, with two sufficient sureties, to be approved of by the Collector of the port or district, that such goods shall be landed at the port or place for which they are entered outwards, or be otherwise accounted for, to the satisfaction of the said Collector.

CVI. When goods in warehouse are sold, the seller shall give the buyer a transfer note, containing the particulars of the goods and the date of sale, and the purchaser shall lodge the same with the warehouse keeper, who shall make a minute of the transfer in a book to be kept for that purpose, and shall be produced, on application; and if this provision shall not be complied with, the goods, so far as respects the officers of the revenue, shall be held to be the property of the seller.

Vendor of
warehoused
goods to give
transfer note,
&c., to pur-
chaser, &c.

CVII. If goods entered for warehouse, or for delivery therefrom, shall, by unavoidable accident, be lost or destroyed, either on shipboard or in the landing, shipping, or receiving, or delivery of the same from the warehouse, or if any such goods shall be destroyed, or being liquors, shall leak or evaporate while in the warehouse, the Lieutenant Governor and Council may remit or return the duties payable or paid thereon; but no abatement shall be made in respect of deficiency in quantity of liquors, or of wastage in any article, unless the goods shall have been warehoused six months.

Duties, &c.,
may be remit-
ted in certain
cases.

CVIII. If the importer of any goods, entered for warehouse and landed, shall, before the same are deposited in the warehouse, further enter the same, or any part thereof, for home use or for exportation, as from the warehouse, the goods so entered shall be considered constructively warehoused, and may be delivered for home use or exportation, as the case may be.

Goods entered
for warehouse,
&c., to be de-
livered for con-
sumption, &c.

CIX. The Collector of impost for Charlottetown, and the several Collectors of impost throughout this Island, shall respectively have power and authority, from time to time, to exact and establish such rates of rent, fees and other charges, relating to the warehousing, exporting and removing of goods, or for any other of the purposes of this Act, as the said Collector of impost for Charlottetown, or the Collector for any other port or place, shall in his discretion think proper and necessary: provided always, that the said rates of rent, fees and other charges shall at all times be subject to be lessened, increased, abolished, or in any other way or manner altered, amended or dealt with by the Lieutenant Governor or other Administrator of the Government for the time being, in Council.

Collectors of
impost empow-
ered to fix rates
of rent in ware-
houses, &c.

CX. All moneys levied, collected or arising under this Act shall be paid into the treasury of this Island, to and for the use of Her Majesty's Government thereof.

Moneys raised
under this Act
to be paid into
treasury.

CXI. This Act may be repealed, altered or amended by any Act or Acts to be passed during the present session.

Act may be
altered, &c.

CXII. This Act shall go into operation and be in force immediately after the passing thereof, and shall from thence

Commence-
ment and dura-
tion of Act.

cause to be paid into the treasury of Her Majesty's said Island the sum of on or before the day of next ensuing; or in case, the said sum shall be permitted to remain in the hands of the said after said day of then if the said their or either of their heirs, executors or administrators, shall well and truly pay on demand to the Treasurer aforesaid, the sum of with lawful interest thereon from the said day of then the said recognizance to be void, or else to remain in full force and virtue.

Taken and acknowledged at pursuant to the statute before me.

SCHEDULE (D.)

Form of bond to be taken on the warehousing of goods.

Prince Edward Island.

Be it remembered, &c., [as in the form of bond (C) as far as the condition of the same, and then thus]—The condition of the above recognizance is such, that if the said shall safely deposit in the bonded warehouse at all and singular the goods mentioned in the entry of the same, made by the said and dated the day of and shall well and truly pay, or cause to be paid, into the treasury of the said Island the sum of on or before the day of in the year of our Lord one thousand eight hundred and or if the said shall export the same in the manner, and under the conditions and requirements by law directed and required on the exportation of warehoused goods; and if no part of the said goods shall be taken out of the said warehouse by the said or any person or persons with his knowledge, privity or sanction, unless upon due entry and payment of the duties due thereon, and if the said shall in all respects comply with the provisions of the law respecting warehoused goods; then the said recognizance to be void, otherwise to be and remain in full force and virtue.

Bond to be given on warehousing goods.

Taken and acknowledged, pursuant }
to the statute, this day }
of before me,

SCHEDULE (E.)

Bond to be taken on the removal of goods from one warehouse to another.

Prince Edward Island.

Be it remembered that, &c., [as in the form of bond (C), to the condition, and then thus]:

Bond to be
given on re-
moving goods
from one ware-
house to an-
other.

The condition of the above recognizance is such, that if the above bounden shall safely deposit in the bonded warehouse at all and singular the goods, in quantity and quality, as mentioned in the entry of the same, made and signed by the said and dated the day of and shall produce a certificate, under the hand of the Collector of impost for the said port or district of to which the said goods are intended to be removed, to the effect, that the same are landed and deposited in the warehouse for such last named port or place, and shall and do in all other respects comply with and observe the provisions of the law relating to warehoused goods: then the above or with-in recognizance shall be void, or otherwise shall remain in full force and virtue.

Taken and acknowledged, pursuant }
to the statute, this day }
of before me, }

SCHEDULE (F.)

Bond to be taken on the exportation of warehoused goods.

Prince Edward Island.

Bond to be
taken on the
exportation of
warehoused
goods.

Be it remembered, &c., [as in the form of bond (C), as far as the condition of the said bond, and then thus]:

The condition of the above written recognizance is such, that if all and singular the goods, in quantity and quality, as mentioned in the statement or entry thereof, made and subscribed by the said and dated the day of 18, be landed at in or at some other place out of the limits of this Island, or the territories thereunto belonging, and if the said shall produce to the Collector of impost at and for a certificate, signed by the Collector of impost or other proper revenue officer, of, or British Consul at the port or place at which such goods have been landed, to the effect that the same have been there landed, and shall and do, in all respects, comply with the conditions, rules and regulations by law required and declared on the exportation of warehoused goods, then the above or with-in recognizance to be void, otherwise to be and remain in full force and virtue.

Taken and acknowledged, pursuant }
to the statute, this day }
of before me, }

CAP. II.

An Act to consolidate and amend the Acts regulating the sale by license of spirituous liquors.

Altered and amended by 20 Vic., c. 4, 23 Vic., c. 12, and 25 Vic., c. 5.

[Passed April 14, 1856.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, That the following Acts, that is to say: the Act of the ninth year of Her present Majesty's reign, chapter twenty-six, intituled "An Act to consolidate the several Acts regulating the sale by license of spirituous liquors;" the Act of the tenth year of Her present Majesty's reign, chapter eleven, intituled "An Act to alter and amend the law now in force regulating the sale by license of spirituous liquors, and to repeal certain Acts therein mentioned:" the Act of the sixteenth year of Her present Majesty's reign, chapter ten, intituled "An Act to alter and add to the Act regulating the retail of spirituous liquors;" the Act of the eighteenth year of Her present Majesty's reign, chapter thirty-three, intituled "An Act to amend the laws now in force relating to the sale by license of spirituous liquors," be, and the same are hereby severally, and respectively repealed.

Recited Acts repealed.

II. From and after the passing of this Act, no license shall be granted for keeping a tavern or inn, within this Island, on any other than the following conditions, which shall be inserted in such license, that is to say: that the person to whom such license shall be granted shall keep, at all times during the continuance of such license, in his or her tavern or inn, if in Charlottetown, at least six good and sufficient beds and bedding, four of which beds at least shall be feather beds, for the accommodation of travellers, with good stalled stabling, and necessary and wholesome provender for eight horses, and the stables to be within one hundred yards of the inn or tavern; and if in the country, three such beds, and the like good stalled stabling, and provender for six horses; and any person keeping an inn or tavern in the country, shall at all times have and keep in good repair a good and sufficient shed, well roofed and enclosed, with suitable mangers or provender boxes therein, and having gates or bars for the exclusion of pigs, sheep, cattle and other animals, and for the free ingress and egress of carts, sleighs, and other vehicles belonging to travellers: provided always, that before any such license shall be granted the person or persons applying for the same, shall produce a certificate from two neighboring Justices of the Peace (D), verifying that he, she or they hath or have, in all respects, the accommodations hereinbefore required, and have taken and subscribed an oath, in the form prescribed in the schedule to this Act annexed, marked (A); and also hath or have entered

Conditions on which tavern licenses are to be granted, and which shall be inserted therein.

into a bond or obligation to Her Majesty, her heirs and successors, whereby the person or persons to be licensed shall become bound, with one or more sufficient surety or sureties, in the sum of fifteen pounds, with condition that he, she or they shall at all times keep and maintain good order in the house of entertainment for which such license is required ; and such bond and condition shall be according to the form marked (B), in the schedule to this Act annexed ; and all persons so applying for such tavern license as aforesaid shall, before obtaining such license, produce to the Colonial Secretary a certificate (C), attesting to his or her moral character, and to the necessity of a house of public accommodation, signed by two of the neighboring magistrates and six of his neighbors, being householders.*

Mode of enforcing bond.

III. Any two Justices of the Peace for the town or county wherein such tavern or inn may be situate, shall, on their own view, or on the oath of one or more credible witness or witnesses, have power to enforce payment of the said bond, with costs, after breach of the condition thereof ; and the penalty and costs may be recovered before them, in the same manner as small debts may now by law be recovered ; and for which bond the sum of three shillings and four pence, and no more, shall be taken by the Justice who may prepare and witness the execution thereof, who shall be one of the Justices granting the before named certificates ; and such bond, with the affidavit and certificates hereinbefore mentioned, shall be left with the Colonial Secretary at the time of obtaining the license.

Penalty on tavern keepers not keeping accommodations, and mode of recovery.

IV. Any person who shall obtain such license, and shall neglect to keep accommodations as aforesaid, or shall refuse to accommodate travellers to the extent thereof, shall, upon conviction, on every complaint thereof, made on oath of one or more credible witness or witnesses, before any Justice of the Peace for the County where such inn or tavern is situate, forfeit and pay the sum of forty shillings.

Lt. Governor may grant licenses for sale of spirituous liquors.

V. From and after the passing of this Act, the Lieutenant Governor, or other Administrator of the Government for the time being, may grant licenses for the retail of fermented or distilled spirituous liquors, and the rate or price of such licenses yearly, shall be as follows, that is to say : for any person keeping an inn or tavern in the City of Charlottetown, having the accommodations hereinbefore required, the sum of five pounds ; and for any person keeping a tavern or inn in the country, having the accommodations hereinbefore required, the sum of forty shillings ; and for persons not keeping an inn or tavern, † but who shall require a license for the retail of

* This section is repealed by 23 Vic., c. 12, and 23 Vic., c. 13, except in so far as relates to the city of Charlottetown.

† See 20 Vic., c. 4, for qualification of persons entitled to a pint license, and the certificate necessary to procure same.

spirituous liquors in quantities not less than one pint, the sum of three pounds ten shillings; all which sums respectively shall be paid into the treasury of this Island, for the use of Her Majesty's Government thereof; and the same shall be appropriated as may be directed by any Act of the Legislature of this Island which may now or hereafter be in force: provided always, that after the passing of this Act no license shall be granted for the sale of fermented or distilled spirituous liquors, in quantities less than one pint to any person not having tavern accommodations as aforesaid.

Proviso.

VI. Any person or persons who shall retail any fermented or distilled spirituous liquors in less quantities than two gallons, without having first obtained a license to that effect, shall, on the first conviction thereof, forfeit and pay the sum of five pounds, and for every succeeding offence committed after such first conviction, the sum of ten pounds; and if any person or persons, except such as shall have obtained a tavern license therefor, shall hereafter retail or sell any distilled spirituous liquors in quantities less than one pint, or shall suffer any such liquors sold by him, her or them, to be drunk in his, her or their house, shop, booth, or other premises, he, she or they shall forfeit and pay, on the first conviction thereof, the sum of five pounds, and for every subsequent offence committed after such first conviction, the sum of ten pounds; to be recovered, with costs, in way and manner directed by the thirty-first section of this Act.

Penalty for selling by retail without license.

VII. All persons within this Island, who shall agree or contract with any artificer, journeyman, servant, laborer, or other person employed by them, to pay such artificer, journeyman, servant, laborer, or other person, any part of his, her or their wages in rum, or other distilled spirituous liquors, or shall set-off or deduct all or any part of the wages so due to them respectively, for any or either of these articles so paid or delivered, shall be deemed unlicensed retailers within the true intent and meaning of this Act; and shall, on the first conviction thereof, and for every subsequent offence committed after such first conviction, be subject to all and singular the penalties, forfeitures and punishments hereinbefore enacted against unlicensed retailers; and all such artificers, journeymen, servants, and other persons, shall be entitled to his, her or their whole wages, notwithstanding any such agreement, set-off, or deduction, and shall have the like remedy in law for the recovery of the same, as if all or any part of such wages were not in any manner paid or discharged.

Persons paying, &c., wages of artificer in spirituous liquors, to be deemed unlicensed retailers, and liable to penalties as such.

VIII. All persons having licenses as aforesaid, who shall take or receive any pawn or pledge whatsoever, by way of security for the payment of any sum or sums of money due or

Return of pawns or pledges taken

* By 25 Vic., c. 5, s. 11, malt liquors of all kinds are included in the term "spirituous liquors," when used throughout this Act.

by licensed retailers may be compelled.

If destroyed, &c., value thereof to be paid.

owing for rum or other distilled spirituous liquors, shall, upon complaint on oath before any of the said Justices of the Peace, and in virtue of his direction and order, thereupon be compelled to restore the said pawn or pledge to the pawner thereof; and the pawner shall also be exonerated from the payment of the sum for which the said pawn or pledge was made; and if the said pawnee shall have destroyed or otherwise disposed of the said pawn or pledge, then, in such case, the said Justice to whom such complaint may have been made, shall order the value thereof, at the time of making the same, to be paid to the pawner, and which value may be ascertained and established on his oath; and if such pawnee should refuse or neglect to obey such order, the said Justice may thereupon issue a warrant of distress to levy, by sale, of the pawnee's goods and chattels to the value so as aforesaid proved, with all costs attending the same: provided nevertheless, that such complaint be made within three months, next after the time of making such pawn or pledge.

Licensed retailers, &c. not to retail liquor in any other place than where they reside.

IX. All persons who, either by themselves, or by their wives, or any of their children, or known or reputed servants, or substitutes under them, shall directly or indirectly sell any fermented or distilled spirituous liquors, by virtue or under pretence of any license obtained, as in this Act directed, in any other place whatsoever than at the house or place where such person or persons themselves shall actually and constantly reside and dwell, or keep his or their store or shop, shall, on conviction thereof, be subject and liable to the like pains and penalties as persons convicted of selling spirituous liquors without license are by law made subject and liable to.

Penalty on licensed retailers &c. selling spirituous liquors on Sunday.

X. No licensed tavern keeper or other retailer shall sell to or supply any person, except lodgers and boarders in the house of any licensed tavern keeper, or knowingly suffer him, her or them to be supplied with spirituous liquors of any kind on the Lord's day, on pain of forfeiting, on the first conviction thereof, the sum of two pounds, and for every subsequent offence, committed after such first conviction, four pounds.

Licensed tavern keepers to have sign boards on outside of their houses, &c.

XI. All licensed tavern keepers shall cause sign boards to be affixed over their doors on the outside, or on some conspicuous part of the outside of their houses, with the name of the party so licensed, and the words "licensed tavern keeper," painted thereon, under a penalty of twenty shillings.

Justice of the Peace may summon persons to give evidence of breach of this Act.

XII. Any Justice of the Peace may summon before him any person or persons to give evidence relative to any breach of this Act, or any part or clause thereof, except the party or his wife guilty of such breach; and any person or persons who shall or may refuse to attend and declare on oath, when thereunto required, his, her or their knowledge of the premises, shall forfeit and pay a sum not exceeding five pounds.

XIII. All penalties, fines and forfeitures inflicted by this Act, shall and may be recovered before any one of Her Majesty's Justices of the Peace, on view of the fact, or on the oath of the informer or any other credible witness, or upon the confession of the offender; all which fines and penalties shall be recovered, over and above the costs attending the recovery thereof.

Penalties imposed by this Act, how recoverable.

XIV. No licensed retailer shall be deprived of his license except by the Grand Jury, as hereinafter mentioned, or by judgment given by two or more of Her Majesty's Justices of the Peace, upon complaint made of the irregularity or improper behavior of such licensed retailer; the said judgment being grounded upon a summons duly issued by the said Justices, requiring such retailer to appear before them, and upon proof of the charge therein contained; and thereupon it shall and may be lawful for such Justices to suspend the license of such retailer, or wholly to make void the same, as they shall deem just and proper.

How licensed retailer may be deprived of his license, or the license suspended.

XV. If any Justice of the Peace or other qualified person shall wilfully omit the performance of his duty in the execution or nonexecution of any part of this Act, such Justice or other person shall forfeit and pay the sum of ten pounds; one moiety thereof for the use of the informer, and the other moiety to be paid into the treasury of this Island, to and for the use of the Government thereof.

Penalty on Justice, &c., for nonperformance of duty under this Act.

XVI. No retailer or person whomsoever, having a license to retail any fermented or distilled spirituous liquors, shall knowingly harbour or suffer any apprentice or servant to sit drinking in his or her house, or sell or give him or her any such liquors, without the special order or permission of their respective masters or mistresses, on pain of forfeiting, for each and every offence, a sum not exceeding twenty shillings, to be recovered, together with costs, upon conviction, before any one of Her Majesty's Justices of the Peace for the County where the offence shall be committed, and to be paid into the treasury of this Island, for the use of the government thereof.

Penalty on licensed retailer suffering servants, &c., to drink in his house.

XVII. No unlicensed retailer of spirituous liquors shall hereafter maintain any action or suit for the recovery of the price of any spirituous liquors sold by him, her or them, in less quantities than two gallons.

Unlicensed retailer not to recover price of liquors sold in less quantities than 2 gallons.

XVIII. No license shall be granted to any person under the provisions of this Act until such person shall have paid unto the Treasurer of this Island the amount of such license duty; and upon every such payment, the said Treasurer is hereby directed and required to give a receipt therefor, which the applicant for the license shall produce to the Colonial

No license to be granted until duty paid to Treasurer.

Secretary on application for such license as aforesaid; and when and so often as any person shall require a continuance of his or her license from year to year, such person shall receive the same on payment of the license duty, and receipt therefor shall be endorsed on such license by the said Treasurer, on the production of the before mentioned certificates of two Justices of the Peace, granted before the original license was obtained as aforesaid;* and such person shall not be required to take out a new license in each year.

Appropriation of penalties under this Act.

XIX. One half the moneys arising from the several penalties, fines and forfeitures imposed by this Act, shall be paid into the hands of the Treasurer to and for the use of the Government, and the other half shall belong to the person or persons suing for the same.

Actions for penalties to be prosecuted within three months after offence committed.

XX. All prosecutions in pursuance of this Act, for penalties, and forfeitures, shall be commenced within three calendar months after the same shall have been incurred, and in computing the time, the day on which the offence shall have been committed, shall be considered the first.

What shall be deemed disorderly conduct within the meaning of this Act, on the part of tavern or innkeepers.

XXI. It shall be considered (amongst other things), to be disorderly conduct, within the meaning of this Act, if any tavern or innkeeper shall knowingly suffer or permit on his premises, by any guest or guests, or other person, card or dice playing, raffling, shuttling board, skittles, or any other games of chance; or shall furnish intoxicating drink to any person or persons then evidently in a state of intoxication; or who shall himself or herself be openly and repeatedly intoxicated; or shall unnecessarily keep his or her tavern or inn open at late and unseasonable hours; or shall permit any person or persons in his or her tavern to quarrel and fight, or become otherwise riotous, or otherwise guilty of breaking the peace, without giving speedy information thereof to the proper authorities, and using all requisite means to bring the offenders to justice.

List of licensed retailers to be laid before Grand Jury at each term of the Supreme Court.

XXII. At the opening of the Supreme Court of Judicature at each and every of its sittings in the several Counties in this Island, the Justice presiding at such Court shall cause a list of all tavernkeepers, innkeepers, and retailers respectively, in the respective Counties, to whom licenses have been granted as aforesaid, to be delivered to the Grand Jury at such sittings of the said Court respectively; and it shall be particularly given in charge to such Grand Jury to make diligent inquiry and presentment of all and every such person or persons as shall be guilty of any breach of, or offence against the provisions of this Act; and such presentment shall be deemed to be the commencement of a prosecution for the

Duty of Judge on presentment made by Grand Jury.

* In addition to the above mentioned certificates, one must be deposited in accordance with 25 Vic. cap. 5, sec. 1.

offence therein set forth ; and upon the same being made, it shall be lawful for any Judge of the said Court to cause such presentment to be transmitted to any Justice or Justices of the Peace or Commissioner or Commissioners of small debts residing in the County where the offence shall have been committed, who is and are hereby authorized and required to issue a summons against the offender, in the name of Her Majesty, and to proceed and adjudicate thereupon in manner prescribed by this Act ; and any penalty adjudged against any person by reason of such presentment, shall be paid into the treasury.

XXIII. Notice of any appeal or writ of *certiorari*, had or obtained from or upon any judgment given upon any prosecution instituted under and by virtue of the last preceding section, shall be served on or at the office of Her Majesty's Attorney General for the time being, who shall thereupon defend the same in the name of Her Majesty, her heirs and successors.

Notice of appeal, &c. to be served on Attorney General.

XXIV. The Grand Jury shall be and they are hereby empowered to suspend or wholly to annul and make void the license of any retailer of spirituous or fermented liquors, in like manner as Justices of the Peace are empowered to do by this Act ; and no right of appeal from any judgment or order of the Grand Jury shall be granted or allowed.

Grand Jury empowered to suspend and annul licenses, &c.

XXV. If any tavern keeper, inn keeper or retailer shall sell, offer for sale, or have in his possession, any wine, brandy, strong beer, ale, or any other spirituous liquors, knowing the same to have been illegally imported into this Island, such tavern keeper, inn keeper or retailer, upon conviction thereof, on the oath of a credible witness, before a Justice of the Peace for the County in which such offence has been committed, shall forfeit and pay the sum of five pounds, with costs of prosecution ; one half of which sum shall be paid to any person who shall sue or prosecute for the same, and the other half into the treasury, for the use of the Government.

Penalty on tavern keeper having in his possession wine &c, illegally imported.

XXVI. Every licensed tavern keeper shall keep a copy of his license, certified by any one of Her Majesty's Justices of the Peace, posted up in some conspicuous place in his store or tavern, where it may be open to the inspection of the public ; and any person neglecting to keep his license so certified and posted up as aforesaid, shall forfeit and pay, for every such neglect or offence, the sum of forty shillings, to be recovered, with costs, before any Justice of the Peace ; one half to be paid into the treasury of this Island, and the other half to the person prosecuting for the same.

Licensed retailer to keep copy of license posted up in his tavern, &c.

XXVII. No person shall sell, or expose for sale, any distilled fermented spirituous liquors of any kind, either out of doors or in any booth, tent, or other erection or building,

No person to sell liquor in any booth, tent, &c.

other than the constant place of residence or business of a retailer of liquors, at any fair, market, race ground, or other public place of meeting, on pain of being fined as unlicensed retailers of spirituous liquors; and it shall be lawful for any Justice of the Peace, or any Constable, upon view of the fact, to destroy, or cause to be destroyed, all such liquors, as aforesaid, as shall be exposed for sale, contrary to the terms of this section.

In case of appeal, the evidence of a witness to be received by Supreme Court.

XXVIII. In case any person shall appeal from a conviction, for a breach of any of the provisions of this Act, and the witness or witnesses who proved the same shall be absent from this Island, or otherwise unable, from some cause, to be allowed by the Court to attend to give evidence, on the hearing of such appeal, then, and in every such case, the substance of the evidence given by such witness, at the time when such conviction took place, shall be received and taken to be as good evidence, to support the same, before the Court of appeal, as if such witness were examined *viva voce* on the hearing of such appeal; provided always, nevertheless, that the evidence of any such witness or witnesses, sought to be so used as aforesaid, on the hearing of any appeal, shall have been read over to the prosecutor and defendant, and to such witness, by the said Justice or Justices; and any objection made by the witness or witnesses, or parties, or either of them, to such written evidence, shall be noted thereon at the time, if the evidence shall not be altered by the said Justice or Justices at the time, in the presence of the parties; and the Justice or Clerk of the Court, by or before which such conviction shall be given or made, shall in all cases take down the evidence on which any such conviction shall be grounded, and the same shall be received as evidence in the Court of appeal in the cases last aforesaid, saving all just exceptions thereto.

Oath to be taken by constable, in addition to usual oath of office.

XXIX. Every constable, when sworn into office, annually shall take the following oath, in addition to the usual oath of office heretofore taken by constables, that is to say:—

“I, *A. B.*, do swear, that while I act as constable in this Island, for the present year, and in the district for which I am appointed, I will well and faithfully execute the duties imposed upon me by the laws of this Island, made to regulate the sale of spirituous and fermented liquors, and without fear or favor.
So help me God.”

Duties of constable under this Act, and powers to visit houses, &c., to ascertain breach of this Act, &c.

XXX. It shall be the duty of every constable, while in office, as such, to visit all houses and places where he has reason to suspect that any breach of this Act is there being or has been committed, at all hours, by day or night, first giving intimation of the object of his visit at the door or entrance, if required so to do; and every person shall admit such con-

stable, and produce such license to such constable, when reasonably demanded, on pain of being fined as an unlicensed retailer of spirituous liquors, in case it shall appear that such person had so retailed, contrary to this Act; and all constables are hereby required, whenever it shall become known to them, on their own view, or from any noise or tumult, or by credible information from others, that any breach of this Act has been or is being committed, to repair to the house or place complained of, and ascertain the facts of the case; and in every instance, where there appears probable ground to convict, the constable shall forthwith fully lay the case, on oath, before a Justice of the Peace; and in all cases of conviction being made, he shall be paid his fees, as the same are allowed by the Court of Commissioners for the recovery of small debts; and in case of judgment of nonsuit, or for defendant, the said constable shall be entitled, in the discretion of the Justice or Justices who shall have tried the case, to his fees and expenses, to be paid in manner prescribed by the Act of the General Assembly of the fourteenth Victoria, chapter twenty-one, intituled "An Act to provide for the trial of common assaults and batteries;" and for every neglect of his duty therein, the constable shall be liable to a fine not exceeding five pounds.

XXXI. It shall and may be lawful for any Justice or Justices of the Peace, before whom any person or persons shall be convicted in any fine, of any offence committed against the provisions of this Act, to order the payment thereof; and in default of payment of the fine or penalty adjudged to be paid by the said person or persons so convicted as aforesaid, when directed by the said Justice or Justices, to issue a warrant of distress against the goods and chattels of the said person or persons for the amount of the said fine or penalty, and costs, and cause the same to be sold to satisfy the said fine or penalty, and costs; and in case no goods or chattels shall be found whereon to levy the same, the said Justice or Justices shall and may commit the person or persons so convicted to the common jail at Charlottetown, or to any other jail in this Island, near to where the offence may have been committed, for a period not less than one calendar month, nor exceeding two calendar months.

Mode of levying or enforcing payment of penalties under this Act.

XXXII. No person shall or may, after the passing of this Act, sell, upon trust or credit, any distilled spirituous liquors, in less quantities than one pint, to any person or persons whomsoever, except licensed retailers, who may sell to the value of five shillings only; nor shall any person maintain an action at law, or suit in equity, against any person so credited or trusted, their executors or administrators; and in all cases where persons licensed as aforesaid, or others in trust for or under them, shall or may take or receive from any person so trusted, any obligation or other security for the securing the

No person to sell on credit less quantity of liquor than one pint.

payment of sums exceeding the said sum of five shillings, the same are hereby rendered null and void.

Penalty on person lending beds, &c., to enable another to obtain certificate.

XXXIII. Every person who shall temporarily lend or let to any other person any beds or bedding, for the purpose of exhibiting the same to any Justice of the Peace, in order to induce such Justice to grant the aforesaid certificate, contrary to the intentions of this Act, shall forfeit and pay, for each and every such offence, a sum not exceeding five pounds, besides forfeiting to Her Majesty their right to all such beds or bedding so lent or let as aforesaid.

Duty of Justices to inspect tavern, &c., during continuance of license.

XXXIV. It shall be the duty of the Justices of the Peace who shall sign the before mentioned certificate, and they or either of them, and in their absence, any other Justice of the Peace, are, and is hereby authorized and directed, to inspect or cause the tavern or inn, and stable and shed accommodations respectively, for which their said certificate shall have been granted, to be inspected as often, during the continuance of such license, as to the said Justices, or either of them, shall appear requisite; and for that purpose, upon the information of any housekeeper, resident in the vicinity of such tavern or inn, to the effect that he hath good reason to believe, that the licensed keeper of such tavern hath not the full accommodations required by law, (whether such information be made on oath or otherwise), it shall be lawful for the said Justices, or either of them, to grant an authority in writing, under his or their hands, directed to any one or more constables, by name, of the same town, royalty or township, and authorizing such constable or constables to proceed to and make all necessary examination of the said tavern or inn, and stable accommodations; and in case any of such stable or other accommodations shall be found wanting, such Justice or Justices shall forthwith take measures to enforce the law respecting the same.

Penalty on constable for neglect of duty.

XXXV. Every constable, on being tendered reasonable fees for such service, who shall refuse or neglect to perform his duty in this respect; and every person who shall, by any means, wilfully obstruct, prevent, hinder or deter any constable in the performance of such duty, shall forfeit and pay, for each and every such offence, any sum not less than one pound, nor more than two pounds.

Licenses to retail liquors may continue, &c.

XXXVI. All persons having, before the passing hereof, obtained license for the retail of spirituous liquors, may continue to retail the same, subject to the provisions and restrictions in this Act contained, until the expiration of the term for which such licenses shall have been granted; and such persons, on paying annually the license duty by this Act required, shall have the said licenses renewed by the Treasurer,

without being obliged to pay any fees therefor at the office of the Colonial Secretary.*

SCHEDULES referred to by this Act.

SCHEDULE (A.)

FORM OF OATH.

"I, *A. B.*, of _____ in the County of _____ yeoman, do swear, that the stable and shed accommodations therein this day viewed and examined by *E. F.* and *G. H.*, Esquires, two of Her Majesty's Justices of the Peace, are now complete and in my actual possession, and are intended so to be, at all times during the continuance of my intended license, appropriated for the use of such horses and beasts of burden as may be required to be stabled therein by persons who shall put up or stop at my said intended tavern, and are not intended, and shall not be used by me or any other person, for any other purpose, to the exclusion or denial of any such horses or beasts of burden; and the stable is within one hundred yards, and the said shed within thirty yards, from said tavern; and I do further swear, that the beds and bedding now exhibited to them, the said *E. F.* and *G. H.*, are according to the inventory hereunto annexed, and are for the use of travellers who may stop at this my intended tavern, and are lawfully in my possession, and have not been hired or borrowed for the temporary purpose of enabling me to obtain a license; and that I will, at all times, use such license for the sole purpose of keeping a public tavern or inn, wherein I will entertain such proper guests as may offer, not being more than I can receive, and I will make only fair and reasonable charges against them for my services.

Form of oath to be taken by applicant for tavern license.

So help me God."

SCHEDULE (B.)

FORM OF BOND.

Know all men by these presents that we _____ are held and firmly bound unto our Sovereign Lady the Queen, her heirs and successors, in the sum of fifteen pounds, lawful current money of this Island, for which payment well and truly to be made, we jointly and severally bind ourselves, our, and each of our heirs, executors and administrators, firmly by these presents, sealed with our seals, and dated this _____ day of _____ in the year of our Lord one thousand eight hundred and _____

Form of bond to be given by tavern keeper.

* See 25 Vic. cap. 5, sec. 1.

Whereas the above bounden is about to apply for a license for the sale, by retail, of spirituous liquors in the tavern or house of public entertainment kept by the said at in the County of

Now the condition of the above written obligation is such, that if the above bounden shall, on having obtained a license as aforesaid, in no way or manner at any time offend against or violate, but at all times well and sufficiently comply with the regulations or provisions made by law for the sale by license of spirituous liquors, and shall keep and maintain good order in the tavern or house of entertainment aforesaid, then and in such case, the above written bond or obligation to be void, otherwise to be and remain in full force and virtue.

Signed, sealed and delivered in the presence of

SCHEDULE (C.)

CERTIFICATE OF MAGISTRATES AND HOUSEHOLDERS.

Certificate that
tavern is required,
&c.

We, the undersigned, do hereby certify, that a tavern or inn is required and necessary at in the Township of [or Town, as the case may be], for the accommodation of the public, and that [name of applicant], being the applicant for a license to keep the same, is of good moral character.

SCHEDULE (D).

CERTIFICATE OF TWO JUSTICES AS TO ACCOMMODATIONS.

Certificate that
applicant has
the necessary
accommodations.

We, the undersigned, having examined the premises of who is an applicant for a tavern license, do certify that the said has the necessary accommodations to entitle him to receive the same.

CAP. III.

An Act to consolidate and amend the laws relating to weights and measures.

[Passed April 14th, 1856.]

WHEREAS it is necessary to consolidate and amend the several Acts relating to weights and measures: Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows, that is to say: "An Act made and passed in the third year of the reign of William the Fourth, intituled 'An Act to repeal an Act made and passed in the

Recited Acts
repealed.

thirty-fifth year of the reign of his late Majesty King George the Third, intituled 'An Act for ascertaining the standard of weights and measures in this Island, and to make other provisions in lieu thereof;,' an Act made and passed in the fourth year of her present Majesty's reign, intituled "An Act to amend the Act relating to weights and measures;" an Act made and passed in the ninth year of her present Majesty's reign, intituled "An Act in addition to two several Acts therein mentioned relating to weights and measures;" an Act made and passed in the fourteenth year of her present Majesty's reign, intituled "An Act to extend the provisions of an Act for ascertaining the standard of weights and measures in this Island to mills therein, and to make other alterations therein;" an Act made and passed in the seventeenth year of her present Majesty's reign, intituled "An Act to amend the law relating to weights and measures;" shall be, and the same are hereby respectively repealed.

II. All weights and measures in this Island shall be according to the standard of the Exchequer of England, as it was in the year one thousand eight hundred and nineteen, when the standard weights and measures now in use were first imported.

Weights and measures to be according to standard of 1819.

III. The Lieutenant Governor, or other Administrator of the Government, for the time being, in Council, is hereby requested to appoint one or more person or persons in each County in this Island to be Assayers of weights and measures in and for such County; and every person so appointed shall be furnished with a complete set of standard weights and measures; and shall, within one month after his appointment as aforesaid, publish notice of his appointment in the *Royal Gazette*, stating where his office, containing the standard weights and measures, is situate.

One or more Assayers of weights, &c. to be appointed for each county.

IV. All Assayers of weights and measures are hereby required to assay and adjust all weights and measures brought to them at their respective offices, according to the standard in the last preceding section mentioned, and shall stamp and mark thereon the letters V. R., or the initials of the reigning Sovereign; and shall grant a certificate to the effect, that the said weights and measures have been assayed and stamped; for which he shall be entitled to receive the sum of six pence for every weight and measure stamped as aforesaid, and no more.

Duty of Assayer.

V. Any Assayer of weights and measures shall have full power and authority to inspect all weights and measures, and weighing machines, and for that purpose to visit once in every three months, or oftener, if he shall see cause, any house, shop, mill or other building, place or premises, and to seize all such

Further duty of Assayer.

Penalty on persons using false weights, &c.

weights and measures as are not marked or branded as aforesaid; and upon proof, that the said weights and measures, or any of them, are either less or greater than the legal standard, and have been found in the possession of any person, such person, in whose possession any weights or measures have been found, shall, on due conviction thereof, forfeit and pay a sum not exceeding five pounds, with costs.

Penalty on persons refusing to have weights, &c., inspected.

VI. If any person selling, bartering or exchanging, by weights or measures, or by any description of weighing machine, in any house, shop, grist mill, carding mill, or other premises, shall refuse admittance to any Assayer of weights and measures, lawfully appointed, after such Assayer shall have declared his intention of his coming to execute the duties of his office, the person or persons so refusing shall, for every such refusal, on proof, by the oath of such Assayer or other credible witness, forfeit and pay the sum of two pounds, with costs.

Every grist mill to be furnished with a weighing machine or complete set of weights.

VII. In every grist mill in this Island, there shall be kept at all times a weighing machine or scales, capable of weighing without weights, or in lieu thereof, a complete set of weights, duly stamped as aforesaid, consisting of at least two fifty-six pounds weights, two twenty-eight pounds weights, two fourteen pounds weights, one seven pounds weight, one two pounds weight, and one one pound weight, under a penalty of ten shillings for each of the above weights which shall not be found in such mill, and when such mill shall not contain and be provided with a weighing machine as aforesaid.

Prohibits master, &c. of vessel from receiving on board agricultural produce unless measured by stamped measures.

VIII. From and after the passing of this Act, no person, being in command or charge of any vessel loading with agricultural produce, to be exported from this Island, shall take or receive any such agricultural produce on board of any vessel as aforesaid, without having first measured the same in a measure regularly stamped and assayed by an Assayer of weights and measures within this Island; which said measure when intended for potatoes or turnips, or other edible roots, shall be of a cylindrical form, and of capacity to contain five Winchester half bushels and one half peck struck measure, level with the brim, which shall be deemed and taken as four half bushels, heaped measure; and such measure, so to be stamped and assayed, shall not exceed nineteen inches in diameter at the brim, but the measure for all kinds of grain shall be agreeable to the hereinbefore mentioned standard; and any master or other person having charge of a vessel receiving such agricultural produce as aforesaid, without having constantly on board for use the hereinbefore directed measures, shall forfeit and pay for every such offence the sum of twenty shillings, with costs.

IX. The measure for all kinds of grain shall be according to the hereinbefore mentioned standard, being known as the Winchester measure; the bushel by that standard containing two thousand one hundred and fifty cubic inches and forty-two hundredths of a cubic inch; and it shall be lawful for any Assayer of weights and measures in this Island to stamp and assay, as a grain measure only, any bushel measure whose diameter at the brim shall be the same as the diameter of the half bushel now in use: provided the capacity of such bushel measure shall be in accordance with the size or contents above specified: provided always, that nothing herein contained shall be construed to prevent any person or persons from loading their own vessel with their own produce, or any person loading the whole of any one vessel, to put such produce on board without the beforementioned measures, in case it be mutually agreed on between himself and the master to do so.

Grain to be measured by standard before mentioned, of 1819.

Proviso with respect to persons loading their own vessels.

X. It shall be lawful for any Assayer of weights and measures to stamp and assay any measure, the material of which shall be soft wood: provided the same be properly made and well hooped, in the same manner as he is now authorized to stamp and assay hardwood measures; and such Assayer, for assaying and stamping every such measure, shall be entitled to receive the sum of one shilling.

Assayer may stamp softwood measures if properly made, &c.

XI. No weights, beam, balance, or other weighing machine, scales or standard, of any construction (except common hand steelyards), shall be used for weighing any hay, straw or fodder, or any flour, meal, or other commodity, article or thing whatsoever, unless the same shall have been examined and the construction thereof approved of, and such weights and weighing machine, or the weights and beam thereof, duly assayed and stamped by the Assayer of weights and measures for the Town, County or place wherein such weights, beam, balance, or other weighing machine, shall be stationed or used; and every such Assayer shall give to the owner or keeper of any such weights, beam, balance or weighing machine, or other standard, a certificate under his hand, stating that the construction thereof hath been by him approved of, and that the same, or the weights and beam thereof, hath or have been duly assayed.

No weighing machine, except steelyards, to be used for weighing hay, &c., unless assayed and stamped.

XII. Each and every person who shall keep for public use, or for any gain or reward, or who shall, in the barter, sale or exchange of commodity, use or have in his shop, mill or other place, or in his possession, any such weights, beam, balance or weighing machine, without having the same duly assayed, stamped and approved of, in the manner by this Act directed, shall forfeit and pay, for every such offence, the sum of ten shillings, with costs.

Penalty on persons keeping for public use, &c., unstamped weighing machine, &c.

Assayer, whenever he sees fit, may inspect weighing machine, &c.

XIII. Every assayer shall have power, as often as he shall see cause, to visit and examine every such weighing machine as aforesaid, and to adjust or cause the same to be adjusted and stamped; and in case the same shall appear to such assayer to have become wholly unfit for its purpose, he shall make an order in writing, prohibiting the use of such weighing machine, which order shall be delivered to the owner or keeper of such weighing machine; and from and after the delivery of such order, it shall be unlawful for such owner or keeper to use or suffer to be used such weighing machine, under the like penalty as imposed by the last preceding section of this Act.

Defines measure to be used on sale, &c., of lime.

XIV. The measure to be used hereafter for the sale, exchange or barter of lime, shall be of a cylindrical form, and of capacity to contain exactly six Winchester half bushels, struck or water measure, level with the brim, which shall be deemed and taken as one barrel; and which measure shall not exceed twenty inches, nor be less than eighteen inches in diameter at the brim, and shall be stamped and assayed as herein directed; and when any lime is measured for sale in a bushel or half bushel, such shall be heaped measure.

Lt. Governor, &c., to appoint assayer of weights, &c. for settlements &c.

XV. When and so often as fifteen householders, of any settlement of this Island, shall make application, in writing, to the Lieutenant Governor, or other Administrator of the Government for the time being, requesting the appointment of a person to act as Assayer of weights and measures for such settlement, it shall be lawful for the Lieutenant Governor, or other Administrator of the Government for the time being, to nominate and appoint a fit and proper person to be Assayer of weights and measures for such settlement; and the person so appointed shall be provided with the necessary standard weights and measures, at the costs and charges of the persons requesting the appointment of such assayer.

Persons appointed under former Acts to continue in office hereunder.

XVI. All persons appointed to any office, under and by virtue of any Act or Acts hereby repealed, shall remain in such office until superseded, and shall have the same rights, powers and authorities, as if reappointed after the passing of this Act.

Mode of recovering penalties incurred under this Act.

XVII. All and every the penalties imposed by this Act shall and may be recovered, with costs of suit, in any Court of Commissioners for the recovery of small debts, for the County wherein the offence shall be committed, or before any Justice of the Peace for such County, or before the Mayor's Court, if the offence be committed in the City of Charlottetown, upon the oath of the Assayer of weights and measures, or any other credible witness; and shall be levied by distraint upon the goods and chattels of such offender, and in default

of payment, it shall be lawful for the said Court, or Justice of the Peace, to commit the offender to the jail for the County wherein the offence shall be committed, for any term not exceeding six months, nor less than six days.

XVIII. All fines and penalties, arising under and by virtue of the provisions of this Act, shall be paid, one half to the party suing for the same, and the other half into the treasury of this Island, for the use of the Government thereof.

Appropriation
of penalties,
when recovered.

CAP. IV.

An Act to continue an Act for the regulation of the mackerel fishery. 8 Vic., c. 20.

[Passed April 14, 1856.]

WHEREAS the Act of the eighth year of Her present Majesty's reign, chapter twenty, intituled "An Act for the regulation of the mackerel fishery," will shortly expire, and it is deemed expedient to continue the same: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That the said hereinbefore recited Act shall be, and the same is hereby continued for the space of ten years from the passing hereof, and from thence to the end of the then next session of the General Assembly, and no longer.

Act 8 Vic., c.
20, continued
for ten years.

CAP. V.

An Act to continue the Act relating to the laying down, erection and maintenance of buoys and beacons in this Island. 15 Vic. c. 33.

[Passed April 14, 1856.]

WHEREAS the Act of the fifteenth year of Her present Majesty's reign, chapter thirty-three, intituled "An Act authorizing the harbor and ballast masters of the various harbors and rivers in this Island to superintend the laying down, erection and maintenance of the buoys and beacons therein," will shortly expire, and it is deemed expedient to continue the same: Be it therefore enacted, that the said herein recited Act shall be, and the same is hereby continued for the space of ten years from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

Continues 15
Vic., c. 33, for
ten years.

CAP. VI.

An Act to increase the stock of the Charlottetown gas light company. See 16 Vic. c. 19.

This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to Act 24 Vic., c. 3.

CAP. VII.

An Act further to improve the law of evidence.

[Passed April 14th, 1856.]

12 Vic., c. 4,
and see 16 Vic.
c. 12.

WHEREAS it is desirable further to improve the law of evidence:—

Certificate of marriage, burial, &c., signed by proper officer, to be received as *prima facie* evidence of contents, &c.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows: That a certificate of the marriage of any person married, or of the baptism of any person baptized, or of the burial of any person interred, beyond the limits of this Island, under the hand of the clergyman, priest or minister who shall have officiated at such marriage, baptism or burial, or of the magistrate or other public officer before whom such marriage may have been contracted or celebrated, or an extract from any register kept for the registration of any such marriages, baptisms or burials, certified by the clergyman, priest, minister or public officer, being the legal custodier thereof, whenever offered in any Court of law or equity in this Island, shall be taken and received as *prima facie* evidence of the contents thereof.

Exemplification of will under seal of the Court, &c., to be received as *prima facie* evidence of execution of wills, &c.

II. An exemplification of any will under the seal of any Court, whether in this Island or elsewhere in Her Majesty's dominions, or in any foreign country wherein the original will may be of record, or under the signature of the Judge Surrogate, or Clerk or Registrar of such Court, or of the custodier of such will, or the probate of any such will under the seal of any Court of competent jurisdiction, shall be taken and received, whenever offered in any Court in this Island, as *prima facie* evidence of the execution of such will and of the contents thereof, and also of the death of the testator, unless proof to the contrary be made.

Not necessary to prove any seal, &c.

III. It shall not be necessary to prove any seal, or the signature or authority of any officer affixed to any exemplification, probate, certificate or extract, which, by the foregoing section of this Act, is made *prima facie* evidence of the facts therein stated; but the production of any such document, purporting to be sealed with any such seal, and to be signed by such officer, shall be *prima facie* evidence of such seal and signature, and of the authority of the officer purporting to have affixed such seal to such document, or to have signed the same.

The seal of any foreign Court, &c., to be received as authentic and as *prima facie* evidence.

IV. The seal of any foreign State, and the certificate of the Secretary or any one of the Secretaries of any such State, or of the Executive Government thereof, whenever offered in any Court of law or equity in this Island, to establish the existence and competency of any Court, corporate body, clergyman, priest or minister, officer or officers, his or its identity in rela-

tion to any public document, shall be deemed authentic without proof thereof, and shall be received and taken as *prima facie* evidence of the fact intended to be established thereby, whether such State be a separate sovereignty, or be one of the United States of America, or of any other federation or union of several States.

V. A party producing a witness shall not be allowed to impugn his credit by general evidence of bad character; but he may, in case the witness shall, in the opinion of the Judge, prove adverse, contradict him by other evidence; or by leave of the Judge, prove that he has made at other times a statement inconsistent with his present testimony; but before such lastmentioned proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked, whether or not he has made such statement.

How far and in what manner a party producing a witness shall be permitted to contradict his testimony, &c.

VI. If a witness, upon cross-examination as to a former statement made by him relative to the subject matter of the cause, and inconsistent with his present testimony, does not distinctly admit, that he has made such statement, proof may be given that he did in fact make it; but before such proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked, whether or not he has made such statement.

If a witness does not admit having made a former contradictory statement, proof may be given thereof, &c.

VII. A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the subject matter of the cause, without such writing being shewn to him; but if it is intended to contradict such witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him: provided always, that it shall be competent for the Judge at any time during the trial, to require the production of the writing for his inspection; and he may thereupon make such use of it for the purposes of the trial as he shall think fit.

A witness may be cross-examined as to a previous statement made by him in writing, &c.

VIII. It shall not be necessary to prove by the attesting witness any instrument, to the validity of which attestation is not requisite; but any such instrument may be proved by admission or otherwise, as if there had been no attesting witness thereto.

Instruments may be proved by admission, &c.

IX. Comparison of a disputed handwriting with any writing proved to the satisfaction of the Judge to be genuine, shall be permitted to be made by witnesses; and such writings, and

Comparisons of disputed handwriting may be made and given in evidence, &c.

the evidence of witnesses respecting the same, may be submitted to the Court and Jury as evidence of the genuineness or otherwise of the writing in dispute.

CAP. VIII.

7 W. 4, c. 30. An Act to explain and amend the Statute of limitations of actions concerning real estate.

[Passed April 14, 1856.]

7 W. 4, c. 30, s. 2. **7 W. 4, c. 30, s. 13.** **WHEREAS** it is enacted by the second section of the seventh William the Fourth, chapter thirty, that no person shall make an entry or bring an action to recover land but within twenty years next after the time at which the right to make such entry or to bring such action shall have first accrued to some person through whom he claims; or if such right shall not have accrued to any person through whom he claims, then within twenty years next after the time at which the right to make such entry or to bring such action shall have first accrued to the person making or bringing the same; and by the thirteenth section of the said recited Act it is enacted, that if, at the time at which the right of any person to make an entry or bring an action to recover any land, shall have first accrued, as therein mentioned, such person shall have been under any of the disabilities hereinafter mentioned, that is to say, infancy, coverture, idiotcy, lunacy, unsoundness of mind, or absence beyond seas, then such person, or the person claiming through him, may, notwithstanding the said period of twenty years therein before limited shall have expired, make an entry or bring an action to recover such land at any time within ten years next after the time at which the person to whom such right shall first have accrued as aforesaid, shall have ceased to be under any such disability, or shall have died (which shall have first happened); and whereas it frequently happens that parties claiming a right to land in this Island, and residing beyond the seas, but who have or are represented in this Island by agents duly authorized by them to manage their lands and estates therein, do nevertheless claim to be under disability, on account of such their residence beyond the seas, and therefore entitled to have a longer period allowed to them for bringing an action to recover land, which appears to be unjust and contrary to the spirit of the said statute:

No person having authorized agent to be deemed under the disability of absence beyond the seas.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows: That no person shall be held or deemed to be or to have been beyond the seas, or to have been or to be under any disability on that account, to bring an action to recover any land in this Island, who shall have been or may hereafter be represented in this Island by

an agent or attorney, duly authorized to manage and look after the lands therein, but the presence of such authorized agent or attorney shall be held and deemed to have been heretofore or to be hereafter in all respects the same as the personal presence in this Island of the party bringing or entitled to bring the action; and if, at the time of the right accruing, the party to whom it accrued or may accrue, shall have been or may be beyond the seas, and shall not have been or may not be represented by any such authorized agent or attorney, and on that account would, in the construction of the said Act, be held and deemed to have been or to be under a disability in that respect, then if such party to whom the right has accrued, or may accrue, or any claiming through or under him, may have been or shall be at any time after the accruing of such right, represented in this Island by such authorized agent or attorney, then and thereupon the disability shall be held and deemed to have ceased, or to cease, as much in all respects as if, under the thirteenth section of the said recited Act the, person to whom such right may have first accrued or shall accrue, as in the said Act mentioned, or any claiming under him, had actually and personally come into this Island or died.

His disability shall thereupon cease, as much as if the party had personally come into this Island.

II. In the construction of this Act, a party shall be held and deemed to have been, or to be represented in this Island by an agent or attorney, duly authorized to manage and look after his lands therein, when there has been or shall be any person therein holding a written letter of attorney or other document from him, registered in the office of the registry of deeds in this Island, authorizing such person to manage, or look after, or lease, or sell the said lands, or to do either of the above acts, or any other act, amounting in effect or purport to the same, or either of them, or of the same nature and extent; and a copy of such written letter of attorney or other document, extracted from the books kept in the said office for the Registry of deeds, certified by the said Registrar of deeds to be a true copy of the same as it appears in the books, shall be taken and received in all Courts of law and equity in this Island as evidence, *prima facie*, that the party giving or executing, or purporting to have given or executed such letter of attorney or other written document, was, at the date when the same may appear to have been registered, represented in this Island as aforesaid.

Defines when a party shall be deemed to have been represented by an authorised agent, &c.

III. Provided always, nevertheless, that this Act shall not extend to or in any way affect suits, at the time of the passing thereof, pending in any Court of law or equity in this Island.

Nothing herein to affect pending suits.

IV. This Act shall be of no force or effect until Her Majesty's assent shall have been given thereto, and until the ex-

When this Act shall go into operation.

piration of twelve months after notice thereof shall have been published in the *Royal Gazette* newspaper of this Island.

. This Act received the royal assent on the 21st August, 1856, and notice thereof was published in the *Royal Gazette* newspaper of this Island, on the 18th September, 1856.

CAP. IX.

See 59 G. 3, c. 9.

An Act for barring estates tail.

[Passed April 14, 1856.]

WHEREAS it is doubtful, whether there is any law in force in this Island, whereby estates tail, or in reversion or remainder, may be barred or defeated or enlarged into estates in fee simple, other than by levying fines or by suffering common recoveries, the process of which and of making and executing deeds to lead to the uses, or to declare the uses of such recoveries, are attended with heavy expenses and with delays that are often injurious:—

Deeds executed by tenant in tail, acknowledged before Chief Justice, &c., to be valid in law.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That a deed, in due form of law, made and executed, of any lands, tenements or hereditaments within this Island, by any tenant in tail, acknowledged before the Chief Justice, or any assistant Judge of the Supreme Court of Judicature of this Island, shall, to all intents and purposes, be as effectual and valid in the law, to pass all estate, right, title, interest and claim of the party to such deed, in or to such lands, tenements and hereditaments, by such deed granted, conveyed or made over to the grantee or bargainee in such deed, his heirs and assigns, and to defeat, extinguish, cut off and destroy all estates tail, remainders and reversions, touching and concerning such lands, tenements and hereditaments, as if the party so granting or conveying had levied a fine with proclamations, or suffered a common recovery of such lands, tenements and hereditaments, according to the laws of England formerly in force, duly levied in the Court of Common Pleas at Westminster, with deeds properly executed, to lead the uses or declare the uses of such fine or recovery of lands, tenements and hereditaments, lying and being in England: provided always, that where such deed of conveyance shall be executed by *baron* and *feme*, of any lands, tenements and hereditaments, as aforesaid, then the same shall be acknowledged in the form and manner provided by an Act of the General Assembly of this Island, of the thirty-sixth year of the reign of George the Third, chapter three, intituled “An Act to render valid conveyances of real estate of married women, by them made or to be made during

Proviso.

their coverture;" and such deed of conveyance so acknowledged shall be as good and valid in law, as if the same had been made by a *feme sole*, or as if such married woman had joined in levying a fine, according to the law and practice in that behalf formerly made and used in England, and shall effectually bar her dower in such lands, tenements and hereditaments.

II. All deeds, in due form of law made and executed in Great Britain or Ireland, or in any of Her Majesty's Colonies, of any lands, tenements or hereditaments in this Island, by tenant in tail, and acknowledged within three months of the time of executing the same, before any one of the Justices of the Common Pleas in England or Ireland, or any one of the Lords of Sessions in Scotland, or any Chief Justice, or assistant Judge of the Supreme Courts in the Colonies, shall be as effectual and valid in the law, to pass all estate, right, title, interest and claim of the party to such deed, in or to such lands, tenements and hereditaments by such deed or conveyance granted, made over or conveyed to the grantee or bargainee in such deed, and his heirs and assigns, and to defeat, extinguish, cut off, and destroy all estates tail, remainders or reversions, touching or concerning such lands, tenements and hereditaments, as if the party so granting and conveying had levied a fine with proclamation, or suffered a common recovery of such lands, tenements and hereditaments, according to the law of England formerly in force, duly levied in the Court of Common Pleas at Westminster, with deeds properly executed, to lead the uses or declare the uses of such fine or recovery of lands, tenements and hereditaments lying and being in England: provided always, that when such deed of conveyance shall be executed by *baron* and *feme* in Great Britain or Ireland, or in any of Her Majesty's Colonies, of any lands, tenements and hereditaments as aforesaid, then the same shall be acknowledged in the form in the hereinbefore recited Act of the General Assembly provided; and such acknowledgment may be taken, within three months of the time of executing the same, before any one of the Justices of the Court of Common Pleas in England or Ireland, or any one of the Lords of Session in Scotland, or any Chief Justice, or assistant Judge of the Superior Court in the Colonies; and such deed of conveyance so acknowledged shall be as good and valid in the law, as if the same had been made by a *feme sole*, or as if such married woman had joined in levying a fine, according to the law and practice in that behalf, made and used in England, and shall effectually bar her dower in such lands, tenements and hereditaments.

Manner in which deeds, by tenant in tail, out of this Island, are to be executed and acknowledged.

Proviso, where deed executed by *baron* and *feme*, &c.

III. No deed or instrument, executed as aforesaid, shall have any force or effect, except against the party granting it,

No deed, &c., to have force until registered.

until the same, or a memorial thereof, shall be duly registered in the proper office for the registry of deeds in this Island.

Enacts that all acts done under 59 G. 3, c. 9, shall be valid, &c.

IV. And whereas it is uncertain, whether an Act passed by the General Assembly of this Island, in the fifty-ninth year of the reign of King George the Third, intituled "An Act for barring estates tail," ever received the royal allowance, whence doubts have arisen as to the validity of all titles that have been or have been intended to have been converted into estates in fee simple, under and by virtue of the provisions contained in the said last herein recited Act; for remedy whereof: Be it declared and enacted, that all estates tail, or in reversion or remainder, that have been or have been intended to have been barred, or defeated, or enlarged into estates in fee simple, and every act, matter and thing whatsoever had, made, done or executed, under and by virtue of the provisions of the said last hereinbefore recited Act, are declared to be as valid and effectual, to all intents and purposes, as if the said recited Act had received the royal allowance.

Suspending clause.

V. This Act shall not go into operation, nor be of any force or effect, until Her Majesty's assent thereto shall be known, and notification thereof published in the *Royal Gazette* newspaper of this Island.

. This Act received the royal allowance on the 22d day of October, 1856, and notification thereof was published in the *Royal Gazette* newspaper of this Island, on the 27th November, 1856.

CAP. X.

An Act relating to the Indians of Prince Edward Island.

[Passed April 14, 1856.]

WHEREAS it is found necessary and expedient, in order to protect the Indians in the possession of any lands now belonging to them, or which may hereafter be granted or given to them, or any of them, that commissioners be appointed to take the supervision and management thereof:

It. Governor in Council authorized to appoint commissioners for Indian affairs, &c.

I. Be it enacted, by the Lieutenant Governor, Council and Assembly, that immediately after the passing of this Act, it shall and may be lawful for His Excellency the Lieutenant Governor in Council to appoint commissioners for Indian affairs, and from time to time to fill up vacancies occurring from death, resignation or otherwise.

Instructions to be issued to commissioners.

II. That the Governor in Council may, from time to time, issue instructions to the commissioner or commissioners, for their guidance.

III. That the commissioners shall have and take the supervision and management of all lands that have been, are now, or may hereafter be set apart as Indian reservations, or for the use of Indians: they shall, where the same has not been previously done, ascertain and define their respective boundaries, and report to the Governor, or the Administrator of the Government, all cases of intrusion, or of the transfer or sale of such lands as aforesaid, or for the use or possession thereof by the Indians; and generally shall protect such lands from encroachment and alienation, and shall preserve them for the use of the Indians.

Duties of commissioners.

IV. In all cases of encroachment or trespass upon any such lands, where the damage or injury committed shall not exceed the sum of five pounds, it shall be lawful to proceed, by information, in the name of Her Majesty, before any one or more of Her Majesty's Justices of the Peace for the County; and where the damage or injury committed shall exceed the sum of five pounds, then such information shall be proceeded with in the Supreme Court, notwithstanding the legal title to the land may not be vested in the Crown.

Actions for encroachment, &c., on Indian lands, how and where prosecuted.

V. The commissioners shall, when practicable, communicate with any chief or chiefs of the resident Indians, and explain the wishes of the Governor, and invite his or their co-operation in the permanent settlement and instruction of their people; and shall parcel out a portion of the reservations to each family, where the same has not been previously done, with such limited power of alienation or exchange as may be authorized by the Lieutenant Governor; and also shall aid them in the purchase of implements and stock, with such assistance as they may deserve; and generally shall take such other measures as may seem necessary to carry out the object of this Act, with the approval of the Lieutenant Governor.

Further duties of commissioners.

VI. The commissioners shall, at the close of every year, furnish the Lieutenant Governor, for the information of the Legislature, with reports of their proceedings, and an account of their receipts and expenditure, with the numbers of heads of families settled and children educated; and generally such other information, as may enable the Lieutenant Governor and Legislature to judge of the value and correctness of their proceedings.

Commissioners to report yearly to Lt. Governor, &c.

CAP. XI.

An Act to amend the Act incorporating the Bank of Prince Edward Island. 18 Vic. c. 10.

☞ This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to directions of Act 24 Vic. c. 3.

CAP. XII.

An Act to authorize the Government to prohibit the exportation of saltpetre and other chemical salts.

. This Act having been rendered unnecessary by the order of the Queen in Council of the 9th of April, 1856, passed on the same subject, was not submitted for Her Majesty's confirmation.

CAP. XIII.

An Act to protect Justices of the Peace from vexatious actions.

[Passed April 14th, 1856.]

WHEREAS it is expedient to protect Justices of the Peace in this Island in the execution of their duty :

The action brought against a Justice of the Peace for any act done by him as such, shall be on the case, and be alleged to have been done maliciously, &c.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That every action hereafter to be brought against any Justice of the Peace in this Island for any act done by him in the execution of his duty as such Justice, with respect to any matter within his jurisdiction as such Justice, shall be an action on the case as for a tort, and in the declaration it shall be expressly alleged, that such act was done maliciously and without reasonable and probable cause ; and if, at the trial of any such action upon the general issue being pleaded, the plaintiff shall fail to prove such allegation, he shall be nonsuit, or a verdict shall be given for the defendant.

For an act done by a Justice without or beyond his jurisdiction, an action may be maintained without any allegation ;

but not for an act done under a conviction or order until after such order or conviction shall have been quashed ;

II. For any act done by a Justice of the Peace in a matter of which by law he has not jurisdiction, or in which he shall have exceeded his jurisdiction, any person injured thereby or by any act done under any conviction, or order made, or warrant issued by such Justice in any such matter, may maintain an action against such Justice, in the same form and in the same case as he might have done before the passing of this Act, without making any allegation in his declaration, that the act complained of was done maliciously, and without reasonable and probable cause : provided, nevertheless, that no such action shall be brought for any thing done under such conviction or order until after such conviction or order shall have been quashed, either upon appeal or upon application to Her Majesty's Supreme Court of Judicature of the said Island ; nor shall any such action be brought for any thing done under any such warrant, which shall have been issued by such Justice to procure the appearance of such party, and which shall have been followed by a conviction or order in the same matter, until after such conviction or order shall have been so quashed as aforesaid ; or if such lastmentioned warrant shall

not have been followed by any conviction or order, or if it be a warrant upon an information for an alleged indictable offence; nevertheless, if a summons were issued previously to such warrant, and such summons were served upon such person, either personally or by leaving the same for him with some person at his last or most usual place of abode, and he did not appear according to the exigency of such summons, in such case, no such action shall be maintained against such Justice for any thing done under such warrant.

nor for any act done under a warrant to compel appearance, if a summons were previously served and not obeyed.

III. Where a conviction or order shall be made by one or more Justice or Justices of the Peace, and a warrant of distress or of commitment shall be granted thereon by some other Justice of the Peace *bona fide* and without collusion, no action shall be brought against the Justice who so granted such warrant, by reason of any defect in such conviction or order, or for any want of jurisdiction in the Justice or Justices who made the same; but the action, if any, shall be brought against the Justice or Justices who made such conviction or order.

If one Justice make a conviction, &c., and another grant a warrant on it, the action must be brought against the former for a defect therein, &c.

IV. And whereas it would conduce to the advancement of justice, and render more effective and certain the performance of the duties of Justices, and give them protection in the performance of the same, if some simple means, not attended with much expense, were devised, by which the legality of any act to be done by such Justice might be considered and adjudged by a Court of competent jurisdiction, and such Justice enabled and directed to perform it without risk of any action or other proceeding being brought or had against him: Be it therefore enacted, that in all cases where a Justice or Justices of the Peace shall refuse to do any act relating to the duties of his or their office as such Justice or Justices, it shall be lawful for the party, requiring such act to be done, to apply to the Supreme Court of Judicature, or one of the Judges of the said Court in vacation, upon an affidavit of the facts, for a rule or order calling upon such Justice or Justices, and also the party to be affected by such act, to show cause why such act should not be done; and if, after due service of such rule or order, good cause shall not be shown against it, the said Court or Judge may make the same absolute with or without, or upon payment of costs, as to them shall seem meet; and the said Justice or Justices, upon being served with such rule or order absolute, shall obey the same, and shall do the act required; and no action or proceeding whatsoever shall be commenced or prosecuted against such Justice or Justices for having obeyed such rule or order, and done such act so thereby required as aforesaid.

If a Justice refuse to do an act, the Supreme Court, &c., may, by rule, order him to do it, and no action shall be brought against him for doing it

V. In all cases, where a warrant of distress or warrant of commitment shall be granted by a Justice of the Peace, upon

After conviction or order

confirmed on appeal, no action to be brought for any thing done under a warrant upon it.

any conviction or order which, either before or after the granting of such warrant, shall have been or shall be confirmed upon appeal, no action shall be brought against such Justice who so granted such warrant for any thing which may have been done under the same, by reason of any defect in such conviction or order.

Where action is brought against Justice, contrary to this Act, Judge may stay proceedings, &c.

VI. In all cases, where by this Act it is enacted, that no action shall be brought under particular circumstances, if any such action shall be brought, it shall be lawful for a Judge of the Court in which the same shall be brought, upon application of the defendant, and upon an affidavit of facts, to set aside the proceedings in such action, with or without costs, as to him shall seem meet.

Limitation of actions against Justices of the Peace.

VII. That no action shall be brought against any Justice of the Peace, for any thing done by him in the execution of his office, unless the same be commenced within three calendar months next after the act complained of shall have been committed.

Notice of action to be given before commencing same, &c.

VIII. No such action shall be commenced against any such Justice of the Peace, until one calendar month at least after a notice in writing of such intended action shall have been delivered to him, or left at his usual place of abode by the party intending to commence such action, or by his attorney or agent; in which said notice, the cause of action, and the Court in which the same is intended to be brought, shall be clearly and explicitly stated, and upon the back thereof shall be endorsed the name and place of abode of the plaintiff so intending to sue, and also the name and place of abode or of business of the said attorney or agent, if such notice have been served by such attorney or agent.

Defendant may plead general issue, and give special matter in evidence, &c.

IX. In every such action, the venue shall be laid in the County where the act complained of was committed, and the defendant shall be allowed to plead the general issue therein, and to give any special matter of defence, excuse or justification in evidence under such plea at the trial of such action.

Tender and payment of money into

X. In every such case, after notice of action shall be so given as aforesaid, and before such action shall be commenced, such Justice, to whom such notice shall be given, may tender to the party complaining, or to his attorney or agent, such sum of money as he may think fit as amends for the injury complained of in such notice; and after such action shall have been commenced, and at any time before issue joined therein, such defendant, if he have not made such tender, or in addition to such tender, shall be at liberty to pay into Court such sum of money as he may think fit; and which said tender and payment of money into Court, or either of them,

may afterwards be given in evidence by the defendant at the trial under the general issue aforesaid; and if the Jury at the trial shall be of opinion, that the plaintiff is not entitled to damages beyond the sum so tendered or paid into Court, then they shall give a verdict for the defendant, and the plaintiff shall not be at liberty to elect to be nonsuit; and the sum of money, if any, so paid into Court, or so much thereof as shall be sufficient to pay or satisfy the defendant's costs in that behalf, shall thereupon be paid out of Court to him, and the residue, if any, shall be paid to the plaintiff; or if, where money is so paid into Court in any such action, the plaintiff shall elect to accept the same in satisfaction of his damages in the said action, he may obtain from any Judge of the Court, in which such action shall be brought, an order that such money shall be paid out of Court to him, and that the defendant shall pay him his costs to be taxed, and thereupon the said action shall be determined; and such order shall be a bar to any other action for the same cause.

XI. If, at the trial of any such action, the plaintiff shall not prove, that such action was brought within the time hereinbefore limited in that behalf, or that such notice as aforesaid was given one calendar month before such suit was commenced, or if he shall not prove the cause of action stated in such notice, or if he shall not prove that such cause of action arose in the county or place laid as venue in the margin of the declaration, then and in every such case, such plaintiff shall be nonsuit, or the Jury shall give a verdict for the defendant.

In what cases plaintiff shall become nonsuit or verdict be given for defendant.

XII. In all cases, where the plaintiff in any such action shall be entitled to recover, and he shall prove the levying or payment of any penalty or sum of money under any conviction or order, as parcel of the damages he seeks to recover; or if he prove, that he was imprisoned under such conviction or order, and shall seek to recover damages for any such imprisonment, he shall not be entitled to recover the amount of such penalty or sum so levied or paid, or any sum beyond the sum of two pence as damages for such imprisonment, or any costs of suit whatsoever, if it shall be proved that he was actually guilty of the offence of which he was so convicted, or that he was liable by law to pay the sum he was so ordered to pay; and (with respect to such imprisonment), that he had undergone no greater punishment than that assigned by law for the offence of which he was so convicted, or for nonpayment of the sum he was so ordered to pay.

What damages recoverable, &c.

XIII. If the plaintiff in any such action shall recover a verdict, or the defendant shall allow judgment to pass against him by default, such plaintiff shall be entitled to costs, in

Regulation respecting costs.

such manner as if this Act had not been passed; or if, in such case, it be stated in the declaration, that the act complained of was done maliciously and without reasonable and probable cause, the plaintiff, if he recover a verdict for any damages, or if the defendant allow judgment to pass against him by default, shall be entitled to his full costs of suit, to be taxed as between attorney and client; and in every action against a Justice of the Peace for any thing done by him in the execution of his office, the defendant, if he obtain judgment upon verdict or otherwise, shall in all cases be entitled to his full costs in that behalf, to be taxed as between attorney and client.

All statutes, &c., inconsistent with this Act to be repealed.

XIV. All Statutes, or parts of Statutes of the General Assembly of this Island, which are inconsistent with any of the provisions of this Act, shall be, and the same are hereby repealed.

CAP. XIV.

15 Vic. c. 27. An Act to repeal the Act relating to light and anchorage duties, and to make other provisions in lieu thereof.

[Passed April 14th, 1856.]

Preamble.

WHEREAS it is deemed expedient to repeal the Act of the fifteenth year of Her present Majesty's reign, intituled "An Act relating to light and anchorage duties," and to make other provisions in lieu thereof:

Repeals 15 Vic. c. 27.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that the said hereinbefore recited Act shall be, and the same is hereby repealed.

Light duty payable by vessels sailing from this Island.

II. For each and every vessel registered in this Island, which shall hereafter, on its first voyage, sail from any port or place in this Island for any other port, place or country whatsoever, there shall be paid a light duty of six pence per ton for each and every ton which such vessel shall admeasure, agreeably to its certificate of registry or enrollment, the same to be paid to the Controller of navigation laws at the port or place from which such vessel sails; and such Controller shall deliver to the master a certificate thereof, agreeably to the form in the schedule to this Act annexed, marked (A), which shall exempt the said vessel from further payment of light or anchorage duty, in the same or any other port in this Island, until the first day of January next after such payment, but no longer; and such vessel shall not be cleared at the Custom House without the production of such certificate; but new vessels leaving this Island on their first voyage, and intended

for sale, shall only be liable to pay two pence per ton duty, unless they again return, when they shall immediately become liable to the full duty as aforesaid.

Duty payable
by new vessels.

III. All other vessels coming into any port or place in this Island shall pay, on entry, six pence per ton as aforesaid to the Controller of navigation laws, who shall grant a certificate thereof, agreeably to the form marked (A) in the schedule to this Act annexed, which shall exempt them from further payment of light or anchorage duty, in that or any other port in this Island, until the first day of January next after such payment, but no longer; and the Controller of navigation laws shall be paid seven and one half *per centum* on all money so received by him as aforesaid for light duty.

Duty payable
by new vessels
coming to this
Island, &c.

IV. All vessels anchoring within any harbor or port in this Island, whether for shelter, to take in supplies, or otherwise, without the certificate aforesaid, shall pay six pence per ton to the harbor master of the port or harbor, who shall grant a certificate thereof agreeably to the said form (A), which shall exempt them from further payment of anchorage or light duty, in that or any other port or harbor in this Island, until the first day of January next after such payment, but no longer.

Anchorage
duty payable
for vessels an-
choring in any
harbor, &c.

V. The person receiving anchorage duties as aforesaid shall quarterly make a return, in writing, of the amount received by him, to the Controller of navigation laws for the port, harbor or place for which such person shall have been appointed; and shall make and subscribe an affidavit, at the foot of each return, of the correctness thereof, in the form in the schedule to this Act annexed, marked (B), to be sworn before such Controller of navigation laws, who is hereby required and empowered to administer the oath for that purpose; and all sums of money, so received as aforesaid for anchorage duties, shall, at the time of such return being made, be paid to the Controller of navigation laws for the port, harbor or place as aforesaid, and shall by him be paid, together with all light duties collected under this Act, into the treasury of this Island, to be applied as directed in and by the Act of the eighth Victoria, chapter three, intituled "An Act to make new provisions for the support of lighthouses, buoys and beacons;" and such person shall, for his services, be paid twenty pounds *per centum* on all moneys so received and paid over by him to such Controller as aforesaid for anchorage duties: provided always, that nothing in this Act contained shall entitle or be construed to entitle any Controller of navigation laws to any sum or sums of money as percentage on any moneys received or paid over by or to him for anchorage duties as aforesaid.

Persons receiv-
ing anchorage
duties to make
return quarter-
ly to Collector.

Allowance to
Collectors of
anchorage
dues.

Master of vessel refusing to pay duties, &c. liable to a penalty.

VI. If the master of any vessel liable to any duty imposed by this Act shall, on demand, refuse to pay, or shall depart without paying the same, he shall forfeit five pounds in addition to the amount of duties; and the Controllor of navigation laws, in the case of light duties, or the harbor master, in the case of anchorage duties, is hereby authorized, in his own name as such officer, to sue for and recover such fine and duty before any one of Her Majesty's Justices of the Peace; which Justice is hereby directed and required, on oath being made by any such officer as aforesaid, to cause a *capias* to be issued for the recovery of the same, and immediately to proceed and adjudicate on the same; and if the amount of the judgment given by such Justice, and the costs and expenses, be not at once paid after the giving of such judgment, then the defendant shall be imprisoned for the same length of time, in proportion to the amount of the judgment, as he would have been, under an execution issuing out of any Court for the recovery of small debts, constituted or to be constituted under any Act now or hereafter, for the time being, to be in force, on a judgment of a similar amount recovered therein.

If master neglect to pay duty on demand, vessel may be seized, &c.

VII. If the master of any vessel shall not pay any such duty or duties when duly demanded, or if such master shall conceal himself, or cannot be found on inquiry made on board such vessel, or if such master shall refuse to exhibit and shew forth the certificate of registry or enrollment of such vessel, or any of the vessel's papers, shewing the tonnage of such vessel, when demanded by any officer acting under this Act, such officer shall, and he is hereby authorized to seize such vessel, or any part of her rigging, furniture or materials, and to employ other persons in doing the same, and to detain such vessel or materials, until the duty or duties due and the expenses thereon are paid.

Remedies for recovery of duties, &c., may be pursued concurrently or otherwise.

VIII. The remedies for the recovery of the duties and penalties aforesaid, given by the two last sections of this Act, may be both pursued, and at the same time or different times, or only one may be pursued, or otherwise, as the officer collecting the same may think fit.

Repeals part of 8 Vic., c. 3, & the whole of 11 Vic., c. 11.

IX. So much of the Act of the eighth year of Her present Majesty's reign, chapter three, intituled "An Act to make new provision for the support of lighthouses, buoys and beacons," as relates to and establishes the rates of light duties to be paid on account of vessels clearing from or entering at any port or place in this Island; and also the whole of the Act of the eleventh year of Her present Majesty's reign, chapter eleven, intituled "An Act to explain and amend an Act made and passed in the eighth year of the reign of Her present Majesty, intituled 'An Act to make new provisions for the

support of lighthouses, buoys and beacons," be, and the same are hereby respectively repealed.

X. If any person shall assault, resist, molest, oppose, hinder, or obstruct any Controller of navigation laws or harbor master in the exercise of his office, or of any of the powers by this Act conferred upon him, or any person acting in his aid or assistance, such person shall forfeit and pay a fine not exceeding ten pounds, the same to be sued for and recovered in Her Majesty's name before any two of Her Majesty's Justices of the Peace for the County wherein the offence was committed, and if not paid on conviction, the offender shall be imprisoned for a period not exceeding six months.

Persons obstructing officers in discharge of duty hereunder liable to a penalty.

XI. This Act shall continue and be in force for the space of ten years from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

Continuance of Act.

SCHEDULES to which this Act refers.

SCHEDULE (A.)

Form of certificate of payment of light or anchorage duty.

"I, *A. B.*, Controller of navigation laws (or harbor master, as the case may be), at the port (or harbor or otherwise, as the case may be), of _____ do hereby certify, that the sum of (total amount paid), hath this day been paid to me as light duty (or anchorage duty), for the ship or vessel called the _____ of _____ of the burden of _____ tons, being six pence *per* ton, for each ton which said ship or vessel admeasures according to her register, and that she is by such payment exempt from further payment of light or anchorage duty, under the nineteenth Victoria, chapter [here insert the chapter of this Act], in any port or harbor in this Island until the first day of January now next.

Certificate of payment of duty.

"Dated the _____ day of _____ A. D. 18 _____

"*A. B.*, [L. s.]"

SCHEDULE (B.)

Form of affidavit to be taken by harbor master on making return of anchorage duty.

"I, *A. B.*, harbor master at the port of (or harbor or otherwise), do make oath and say, that the above return contains a

Affidavit to be taken by harbor master on making return.

true account of all moneys received by me on account of anchorage duties, during the period to which such return relates.

Sworn to this day of
 A. D. 18 before me, *C. D.*,
 Controller of navigation laws }
 for the port of } "*A. B.*"

CAP. XV.

An Act to amend the law in this Island as to ejectments and distresses, and as to the occupation of lands.

[Passed April 14th, 1856.]

WHEREAS it is expedient to amend the law in this Island as to ejectments and distresses, and as to the occupation of lands:

In all ejectments for non-payment of rent, the amount of rent claimed shall be stated upon the declaration.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that in all cases of ejectment for non-payment of rent, the amount claimed to be due for rent, and the times at which the same accrued, shall be stated upon the declaration in ejectment, which statement shall be written or printed thereon, in the following form, or as near thereto as the nature of the case will admit, that is to say:—

"The lessor of the plaintiff claims being for
 years' rent, up to the day of and if the
 amount thereof be paid to the lessor of the plaintiff, or his
 attorney, together with the costs, before the day of
 being the first day of (the ensuing term of the
 Supreme Court, or term at which the tenant is to appear, to
 be inserted,) further proceeding will be stayed."

Plaintiff's costs shall be specified, if required, &c.

And the lessor of the plaintiff, or his attorney, shall, upon either of them respectively being required so to do, specify in writing the demand for the plaintiff's costs of such ejectment; and upon payment or tender, within the time so specified, of the rent so specified together with the costs, if specified as aforesaid, to the lessor of the plaintiff or his attorney, or in case the costs shall not be specified upon such requisition, then, on payment within the time aforesaid, of such rent to such lessor of the plaintiff or his attorney, and upon delivery or tender, within the time aforesaid, to such lessor of the plaintiff, or his attorney, of an undertaking in writing, signed by some person served with such ejectment, to pay the plaintiff's costs up to the time of such payment, when taxed, all further proceedings shall cease and be stayed accordingly; provided always, that the defendant in any such ejectment shall be at liberty, notwithstanding such payment, to have the costs taxed; and if any part of the

costs demanded shall be disallowed upon the taxation, the attorney for the lessor of the plaintiff shall pay back to the defendant the sum so disallowed; and if more than one sixth of such costs shall be disallowed, shall also pay to the defendant the costs of such taxation.

II. It shall be lawful for the defendant, in any action of ejectment for nonpayment of rent in the Supreme Court of Judicature, against whom judgment shall not have been obtained in such ejectment, by leave of such Court, or of a Judge of such Court, at any time before notice of trial shall have been served, upon a rule or order obtained for that purpose, or in such manner or according to such course of practice as the Judges of the Supreme Court shall prescribe, as hereinafter mentioned, to pay into Court a sum of money for rent, with liberty to the plaintiff to proceed further in such action, at his peril, the defendant, by such rule or order, undertaking to pay the costs theretofore incurred to be taxed by the proper officer; and in case of nonpayment of the same, to suffer the plaintiff, in taking such money out of Court, either on an affidavit of a proper demand and service of such rule or order, to move for an attachment against the defendant so undertaking, or to sign final judgment in such ejectment; and when such sum of money shall be so paid into Court for rent, if the plaintiff or his lessor shall not accept thereof, with costs, to be taxed by the proper officer, in full discharge of the action, then upon the trial of the issue in such cause, if it shall appear upon the evidence that no greater sum was due for rent from the defendant to the lessor of the plaintiff, at the time of the service of such ejectment, than the sum so paid into Court, the verdict shall be entered for the defendant: provided always, that if final judgment shall be signed for the plaintiff in such ejectment, in consequence of the defendant not paying the costs incurred, pursuant to his undertaking as aforesaid, it shall not be lawful to issue execution thereon, without the leave of the Court first had and obtained: provided also, that if any ejectment for nonpayment of rent be in other respects sustainable, a mistake or error in the statement of the amount of rent claimed to be due shall not defeat such ejectment, except in the case where the full rent due has been paid into Court as aforesaid, and the landlord afterwards proceeding to trial shall fail to prove more to be due for rent than the amount so paid into Court.

In such ejectments, money may be paid into Court for debt and costs.

Provide.

III. If the tenant or tenants, or his or their assignee, or any person served with an ejectment, shall, at any time before the writ of execution, in any ejectment for nonpayment of rent in the Supreme Court, shall be executed, pay or tender to the lessor or landlord, his executors or administrators, or his or their agent or attorney in such cause, all the rent and

Proceedings for nonpayment of rent to be stayed in certain cases.

arrears then due, together with the costs, or a sum sufficient to cover such costs, then and in such case, all further proceeding on the said ejectment shall cease and be discontinued: provided always, that the lessor of the plaintiff or his attorney shall, on being required so to do, furnish to the defendant a statement of the sums claimed for the plaintiff's costs, and proceed to a taxation thereof forthwith; and upon such taxation, if any part of such costs which shall have been paid shall be disallowed, the attorney for the lessor of the plaintiff shall pay back to the defendant the sum so disallowed; or if more than one sixth of the costs demanded shall be disallowed, shall pay to the defendant the costs of such taxation.

The writ of execution in ejectments for non-payment of rent shall state the amount due, &c.

IV. Upon every writ of *habere facias possessionem* in any ejectment for nonpayment of rent in the Supreme Court, there shall be a statement of the amount of the rent then due, to be verified by affidavit of the landlord or his agent, and of the plaintiff's costs; and if, at any time before execution executed, defendant or tenant shall pay to the Sheriff the said sums for rent and costs, together with one moiety of such Sheriff's fees for such execution as would be legally payable, if such execution had been executed, such Sheriff shall stay such execution, and shall endorse on such writ, as a return thereto, the receipt by him of such rent, costs and fees.

In all cases of distress for rent, a written notice of the rent claimed shall be given.

V. In cases of distress for rent, cognizable in any Court in this Island, the person making any such distress shall, at the time of making such distress, deliver to the person in possession of the premises, for the rent of which such distress shall be made (or in case there shall not be any person found in possession, shall affix on some conspicuous part of such premises) a particular in writing of the rent demanded, specifying the amount thereof, the time or times when the same accrued, and the name or place of abode of the person by whom (and if the person who acts in the making of the distress be not the party claiming to be entitled to the rent for which the distress is made, the name of the person by whose authority) such distress is made, or otherwise such distress shall be unlawful and void: provided always, that if the person by whom or whose authority such distress shall be made, shall be the party substantially and beneficially entitled to the rent, such distress shall not be unlawful or void by reason of the person having the legal estate in the reversion not being named in such notice: provided also, that if any such distress shall be in other respects sustainable and well founded, the same shall not be unlawful or void, by reason that the amount of rent demanded by such notice shall not be the exact amount due, if the misstatement of such rent in such notice shall have been made by mistake, and without fraud or malice, or want of reasonable care.

Distress not unlawful on account of mistakes in notice, &c.

VI. In every case of distress for rent, a tender of the rent in arrear, and of the charges of such distress, at any time before the commencement of the sale of the property distrained, shall be sufficient to stay the proceedings on such distress, and to entitle the person distrained upon to a return of the property so distrained upon; and the party, whose goods shall be distrained, shall be at liberty to plead such tender in bar to any avowry or cognizance; and shall be entitled to recover damages in an action on the case against the party by whom or by whose agent or bailiff the goods so distrained shall be withheld after such tender; and for the purposes of this Act, the bailiff appointed, in writing, by the known agent or receiver of any landlord, or of the person substantially or beneficially entitled to the rent for which the distress shall be made, shall be deemed to be the bailiff of such landlord or person so entitled.

In cases of distress for rent, a tender of the amount, before sale, shall be sufficient to stay proceedings.

VII. No distress for rent made otherwise than by the landlord of any premises, or his known agent or receiver, in person, shall be lawful, unless made by virtue of a written or printed warrant, or order to distrain, signed by the landlord or person substantially and beneficially entitled to the rent for which the distress shall be made, or his known agent or receiver, directing the bailiff or other person to distrain the tenant or tenants, person or persons, or on the land and premises named therein, and bearing upon it the date when, and the name of the place at which it is signed, nor unless such warrant or order shall be signed within twenty days next before the time when such distress shall be made.

Warrant for distress for rent to be properly signed.

CAP. XVI.

An Act to alter and amend the Act incorporating the minister and elders of Saint John's Church, Belfast. 2 W. 4, c. 18.

[This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to directions of Act 24 Vic., c. 3.]

CAP. XVII.

An Act to alter and amend the Act relating to the Charlotte-town ferry, and the wharfs connected therewith. 15 Vic., c. 34.

[Passed April 14, 1856.]

WHEREAS the contract for the lease of the Hillsborough ferry opposite Charlottetown, otherwise called the Charlottetown ferry, to John Roach Bourke, of Township forty-

nine, Esquire, entered into under the provisions of the Act of the fifteenth Victoria, chapter thirty-five, and dated the eighth day of April, one thousand eight hundred and fifty-one, has been annulled and declared forfeited, and a new contract for the lease of the said ferry, under the said Act, hath been or is about to be entered into by His Excellency the Lieutenant Governor; and whereas it is intended to build a ferry wharf on the Charlottetown side of the Hillsborough, and it is deemed necessary to make provision for the same, and the regulation thereof, and also otherwise to amend the law relating to the said ferry: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:—

Ferry wharf to be built at the end of Prince street in Charlottetown.

I. The Lieutenant Governor and Council are hereby authorized to cause a new ferry wharf to be built on the Charlottetown side of the Hillsborough, at the end of Prince street, to extend out a sufficient depth to allow the ferry boat to land passengers, cattle, carriages and other freight, without danger or difficulty, both at high and low water, and to be otherwise fitted with landing slips and docks for public convenience and safety.

Wharf to be under the control of Lieut. Governor in Council.

II. The said ferry wharf to be built at the end of Prince street shall be under the management and control of the Lieutenant Governor, or the Administrator of the Government for the time being, in Council, who shall have power to make and enforce such rules and regulations for the management and preservation of the same, and as to what boats or vessels (if any) shall be allowed to use it, or what articles shall be permitted to be deposited thereon, as from time to time he may think fit.

Any person appointed, authorized to carry out rules and collect wharfage rates, &c.

III. It shall be the duty of such person, as may from time to time be nominated and appointed by the Lieutenant Governor in Council for that purpose, to carry out such rules and regulations, as, in manner aforesaid, may be made for the management of the said new wharf, and to demand and recover in Her Majesty's name, in the Court of Commissioners for the recovery of small debts in Charlottetown, or before any two of Her Majesty's Justices of the Peace for the County, any sum of money which may be due from any person or persons for the use of the said wharf for a vessel, boat or otherwise.

Queen street wharf to be ferry wharf until new one be built

IV. Until the said wharf at the end of Prince street shall be completed and ready for the purposes of the said ferry wharf, the ferry boat shall start from the Queen street wharf in Charlottetown, and from the Minchin's Point wharf on the side of the Hillsborough opposite Charlottetown, and a sufficient space at the end, or some other convenient part of each of the said wharfs, shall always be kept clear for the boats em-

ployed on the said ferry to come alongside and discharge and take in passengers, cattle and goods; and it shall be the duty of the wharfinger of the Queen street wharf, and of the wharfinger of the wharf at Minchin's Point, and they are hereby empowered, with respect to their respective wharfs, to enforce the provisions of this section, and to remove, or cause to be removed, all vessels, goods, boats, or other things which obstruct the free approach of the ferry boats to the said wharfs; and the wharfinger at Minchin's Point shall have the same duties and powers, with respect to keeping the said wharf clear for ferry boats, after the said wharf at the end of Prince street shall be completed and the ferry boats shall run therefrom, as are hereby given to him, when the ferry boats run from the Queen street wharf.

V. When no tender for the said ferry shall be received, under the said Act, after any advertisement calling for the same, or where, from any cause, any contract or lease connected with the said ferry, shall become and have been declared forfeited by the Lieutenant Governor, it shall be lawful for the Lieutenant Governor, with the advice aforesaid, until a regular lease or contract shall have been entered into under this Act, to make such rules, regulations and arrangements respecting the said ferry, and the management and conduct thereof, as he shall deem to be most for the public benefit, advantage and convenience.

Where no tender is received for the ferry, &c. Lt. Governor may make rules for the management thereof.

VI. The present lessee of the said ferry and the premises connected therewith, and also every person who shall or may hereafter become the lessee or ferryman thereof, under this or the said recited Act, shall be subject to such rules and regulations as may have been or shall be fixed and determined by the Lieutenant Governor in Council, respecting the same, previous to the execution of the lease, license or contract therefor, and mentioned and specified therein; and such lease, license or contract shall be and become void and forfeited, on breach of any of the said rules and regulations thereby required to be performed on the part of the lessee, licensee or contractor, when and so soon as a notice in writing, signed by the Lieutenant Governor, declaring the same to be forfeited for such breach, shall have been served on the lessee or contractor, or inserted twice in the *Royal Gazette* newspaper published in this Island.

Lessee of ferry to be subject to the rules inserted in his contract, &c.

VII. The Lieutenant Governor, with the advice and consent aforesaid, shall, from time to time, when occasion may require, on entering into any lease or contract for the said ferry, settle and fix the times of the running of the ferry boats across the said ferry, and make such other stipulations and regulations respecting the same, and the management

Lt. Governor, &c. on entering into a lease of the ferry, shall settle times at which the ferry boats are to run, &c.

thereof, as he may think desirable and requisite for the public convenience and advantage.

Floating brows, &c., to be kept exclusively for use of ferry boats, &c.

VIII. The floating brows, landing slips and docks, now or hereafter to be built on both sides of the said ferry, shall at all times be kept clear for, and used exclusively by the boats belonging to, or plying for the ferryman or lessee of the said ferry for the time being, licensed and recognized by the Lieutenant Governor as aforesaid; and any person making use of the same, without the consent of such ferryman or lessee, shall be liable to pay a penalty not exceeding the sum of ten pounds for each offence, to the use of the ferryman or lessee, or other person suing for the same, recoverable in the name of the ferryman or lessee, or other person suing for the same, before any one of Her Majesty's Justices of the Peace, or Mayor or City Councillor, for the time being, for the City of Charlottetown.


Repeals 4th, 5th, 6th and 17th sections of 15 Vic. c. 34.

IX. The fourth, fifth, sixth and seventeenth sections of the said Act of the fifteenth year of her present Majesty's reign, chapter thirty-four, shall be and the same are hereby repealed.

CAP. XVIII.

See incorporation Act, 18th Vic. c. 34.

An Act relating to the boundaries of the City of Charlottetown, and the jurisdiction of the Mayor's and Police Courts of the said City, and for other purposes therein mentioned.

 This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to directions of Act 24 Vic. c. 3.

CAP. XIX.

7 W. 4, c. 29.

An Act for transferring to one of Her Majesty's principal Secretaries of State the powers and estates vested in the principal officers of the Ordnance.

[Passed April 14, 1856.]

7 W. 4, c. 29.

WHEREAS by various Acts of the General Assembly of this Island, and particularly by an Act of the said Assembly, made and passed in the seventh year of the reign of his late Majesty King William the Fourth, chapter twenty-nine, various powers and authorities were given to, or vested in, and exercisable by the principal officers of Her Majesty's Ordnance, and by the said Act, and by or under divers conveyances, surrenders, assignments and leases, or by some other means, divers lands, hereditaments, estates and property, held, purchased, taken,

used and occupied for the Ordnance and barrack services in this Island, before and at the time of the revocation by Her Majesty, next hereinafter mentioned, were vested in the said principal officers; and whereas Her Majesty hath thought fit to revoke the said letters patent of some of the said principal officers, and, by other letters patent, to transfer to one of Her Majesty's principal Secretaries of State the administration of the department, the duties of which were previously executed by the said principal officers of Her Majesty's Ordnance: and whereas it is expedient, that the said several powers and authorities, and the said lands, hereditaments, estates and property, and all interest therein respectively, should be also transferred from the said principal officers, and vested in one of Her Majesty's principal Secretaries of State: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, and by the authority of the same, as follows:—

I. All the powers, authorities, rights and privileges whatsoever, which by virtue of the said recited Act, or any other Act of the General Assembly of this Island, or of any other law, custom, or usage whatsoever, have been or were at any time vested in or exercised or exercisable by the principal officers of Her Majesty's Ordnance, or any of them within this Island, shall from henceforth continue in full force, and shall be, and the same are hereby declared to be, transferred to, and vested in, and exercisable by Her Majesty's principal Secretary of State for the time being, to whom Her Majesty shall think fit to entrust the seals of the war department.

Powers, &c., vested in the principal officers of the Ordnance within this Island, to be transferred to Her Majesty's Secretary of State for the war department.

II. All lands, hereditaments, estates and property whatsoever, within this Island, which, by virtue of the said recited Act, or any other Act of the said General Assembly, or of any conveyance, surrender, lease, or other assurance, or of any law, custom or usage whatsoever, before and at the time of the revocation of Her Majesty, hereinbefore mentioned, were vested in the principal officers of the Ordnance, on behalf of Her Majesty, or which have been at any time before the passing of this Act held, used, occupied or purchased, vested or taken by or in the name of, or by any person or persons in trust for Her Majesty for the use and service of the said department, or for the defence and security of the realm, and which have not been sold, aliened or parted with, shall from henceforth be, and the same are hereby declared to be transferred to, and vested in the last mentioned principal Secretary of State; and when any succeeding principal Secretary of State, to whom Her Majesty shall have entrusted the seals of the war department, shall cease to hold such office, the said several lands, hereditaments, estates and property, and all lands, hereditaments, estates and property which hereafter shall be purchased or otherwise acquired within this Island by

All lands, &c., within this Island vested in such officers, vested in said Secretary of State, &c.

any such last mentioned principal Secretary for the time being, on behalf of Her said Majesty, shall, by virtue of this Act, be absolutely divested out of such Secretary of State so ceasing to hold such office as aforesaid; and shall, by virtue of this Act, be transferred to and vested in his successor in the said office, immediately upon his receiving the seals of the said department, absolutely; and the said lands, hereditaments, estates and property hereby vested and hereafter to be vested in the said last mentioned principal Secretary of State, shall, as to such of them as were or shall have been purchased, or are or shall be held for an estate of inheritance in fee simple, be so vested in such last mentioned principal Secretary of State, and his successors, in the same manner, as if the fee simple thereof had been originally conveyed to such principal Secretary of State as a corporation sole, and his successors, and as to all lands, hereditaments and property purchased or held for any less estate than an estate of inheritance in fee simple, as if the same lands, hereditaments and property had been originally conveyed, surrendered, demised, or otherwise assured to such principal Secretary of State as a corporation sole, and his successors, for all existing estates or interest therein respectively, and so from time to time.

Contracts, &c., made by the principal officers of Ordnance, relating to the public service, to be enforced by such Secretary of State.

III. All contracts, covenants and agreements heretofore made or entered into by any person or persons whomsoever with the said principal officers of the Ordnance, or any lands, hereditaments, estates and property within this Island, vested in or agreed to be purchased by the principal officers, or in any wise relating to the public service relating to the department, shall be deemed and taken to have been made and entered into with such principal Secretary of State as last aforesaid, and shall be executed and enforced by him in like manner, as if he had originally been party thereto, instead of the said principal officers of the Ordnance; and all proceedings whatsoever which have been, or might or may have been commenced, taken or done in the names of the said principal officers, on behalf of Her Majesty, shall and may hereafter be commenced, continued, taken and done in the name of such principal Secretary of State as aforesaid, in like manner (in the case of proceedings, already commenced, taken or done,) as if he had originally been party thereto, instead of the said principal officers of the Ordnance.

Powers given by Act 7 V., c. 29, to bodies corporate to sell, to be exercised in favor of, and at the instance of the Secretary of State for the war department.

IV. All powers by the said recited Act given to bodies politic or corporate, feoffees or trustees for charitable or other public purposes, tenants for life and tenants in tail, husbands, guardians, trustees, committees, curators and attorneys respectively, in the eighth section thereof mentioned, to contract and agree for the absolute sale or exchange of any messuages, lands, tenements, estates, or other hereditaments, or sale of any reversion, or the grant of any lease, and to convey, sur-


render, demise or grant the same accordingly, shall continue in full force, and hereafter may and shall be exercised and be acted under, or take effect in favor or at the instance of the last mentioned principal Secretary of State for the time being, on behalf of Her said Majesty, and for the public service, in the same manner, and as effectually as the said powers are in and by such recited Act given or created, or made exercisable in favor or at the instance of the said principal officers for the time being, on behalf of Her said Majesty, or for the public service; and all enactments, directions and provisions, in the said recited Act contained, shall continue in full force and effect, and may or shall at all times hereafter be by the last mentioned principal Secretary of State for the time being acted on, and take effect in favor of, and may be enforced by such last mentioned principal Secretary, and his successors, on behalf of Her Majesty and the public service.

V. In every contract, conveyance, surrender, lease, or other assurance of any lands, hereditaments, estates or property within this Island, with, unto, or by the last mentioned principal Secretary of State for the time being, and in every other deed or instrument relating to any such lands, hereditaments, estates or property, or in any wise to the public service, connected with the department to which the last mentioned principal Secretary of State, shall be or shall be intended to be a party, it shall be sufficient to call or describe him by the style or title of "Her Majesty's principal Secretary of State for the war department," without naming him; and every such contract, lease, conveyance, surrender, assurance, deed or instrument may be executed by such last mentioned principal Secretary of State, or by any other of Her Majesty's principal Secretaries of State for the time being, by signing his name thereto; and if the instrument so executed be in the form of a deed, by setting or affixing a seal thereto, and delivering the same as his deed; and whenever any contract, conveyance, surrender, lease, assurance, deed or instrument shall be executed by any other principal Secretary of State than the principal Secretary of State for the war department, the principal Secretary of State so executing the same shall, for that time, and on that occasion, and for the purposes thereof, so far as relates to this Island, or any lands or other property therein, be deemed to be the principal Secretary of State for the war department.

Such Secretary of State to be described in conveyance, &c., as "Her Majesty's principal Secretary of State for the war department."

CAP. XX.

An Act to incorporate the trustees of Saint David's Church, in Georgetown.

 This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to Act 24 Vic., c. 3.

CAP. XXI.

Altered and
amended by 24
Vic., c. 34.

An Act to increase the number of members to serve in the General Assembly, and to consolidate and amend the laws relating to elections.*

[Passed April 14, 1856.]

Repealed Acts
repealed.

WHEREAS it has become necessary to revise and consolidate the several laws now in force relating to the election of members to serve in the General Assembly of this Island, and in some respects to alter the same, inasmuch as a fairer and better representation of the public interests would be obtained, if the electoral districts were more equally subdivided and constituted with regard to their topographical position and extent, and also if the number of the said electoral districts were increased, by having four such districts in each County instead of three: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, the several Acts hereinafter mentioned shall be, and the same are hereby respectively repealed, that is to say: an Act made and passed in the eleventh year of Her present Majesty's reign, intituled "An Act to consolidate and improve the laws for the election of members to serve in the General Assembly;" an Act made and passed in the sixteenth year of Her present Majesty's reign, intituled "An Act to extend the elective franchise;" an Act made and passed in the seventeenth year of Her present Majesty's reign, intituled "An Act relating to the polling divisions of the second electoral district of Queen's County."

Electoral districts and polling places.

Electors to be
polled in one
day.

II. The several Counties, that return members to serve in the General Assembly in this Island, shall be divided into electoral districts as hereinafter mentioned and set forth, and there shall be as many polling divisions in each of such districts, and in each of the towns, commons and royalties in this Island, at or near which a poll may be conveniently held, as may be requisite for the purpose of polling in one day all electors; and at all future elections, the poll, when a poll shall be required, shall be taken in the said polling divisions at or near the places in each district, town, and the common and royalty thereof, for that purpose, hereinafter named and appointed.

Electoral districts of Counties.

Prince County.

III. The electoral districts in the several Counties in this Island shall be known and described as follows, that is to say: in the County, of Prince County the first district shall comprise and include the several townships following, that is to

* Sections 9, 19, 21, 23, 24, 26, 27, 28, 31, 70 and 80 of this Act, and also such other parts thereof as authorized Princetown and Royalty and Township No. 18 to return members, are repealed by 24 Vic., c. 34.

say: townships numbers one, two, three, four, five and six, and Savage island; the second district shall comprise and include townships numbers seven, eight, nine, ten, eleven, twelve and thirteen; the third district shall comprise and include townships numbers fourteen, fifteen, sixteen, and seventeen; and the fourth district shall comprise and include townships numbers nineteen, twenty-five, twenty-six, twenty-seven and twenty-eight, and Indian island: in the County of Queen's County the first district shall comprise and include townships numbers twenty, twenty-one, twenty-two, twenty-nine, thirty and sixty-seven; the second district shall comprise and include townships numbers twenty-three, twenty-four, thirty-one, thirty-two and sixty-five, Peter's island and Saint Peter's island; the third district shall comprise and include townships numbers thirty-three, thirty-four, thirty-five, thirty-six, thirty-seven and forty-eight; and the fourth district shall comprise and include townships numbers forty-nine, fifty, fifty-seven, fifty-eight, sixty and sixty-two, and Governor's island: and in the County of King's County, the first district shall comprise and include townships numbers forty-three, forty-four, forty-five, forty-six and forty-seven; the second district shall comprise and include townships numbers thirty-eight, thirty-nine, forty, forty-one, forty-two and fifty-six; the third district shall comprise and include townships numbers fifty-one, fifty-two, fifty-three, fifty-four, and fifty-five, and Boughton island; and the fourth district shall comprise and include townships numbers fifty-nine, sixty-one, sixty-three, sixty-four and sixty-six, and the several islands in the harbor of Murray harbor, together with Panmure island.

Queen's
County.

King's County.

IV. Each and every electoral district aforesaid shall be divided into polling divisions as hereinafter mentioned: in the first electoral district of Prince County, there shall be three polling divisions; the first of which shall comprise and include townships numbers one, two, and that portion of township three north of Kildare River, and the poll shall be held at or near William Hubbard's store, on township number one; the second division shall comprise and include those parts of townships numbers four, five and six, west of the Western road, and the farms fronting on the Western road, and the poll shall be held at or near Yeo's mills, on township number five; and the third polling division shall comprise and include those parts of townships numbers four, five and six, east of the Western road, and that portion of township three south of the Kildare River, and the poll shall be held at or near the Dock Church, on township number four: in the second electoral district of Prince County there shall be three polling divisions; the first of which shall comprise and include townships numbers seven, eight and nine, and the poll shall be

Electoral districts to be divided into polling divisions.

Polling divisions in first electoral district of Prince County.

Polling divisions in second electoral district of Prince County.

Polling divisions in third electoral district of Prince County.

Polling divisions in fourth electoral district of Prince County.

Polling divisions in first electoral district of Queen's County.

held at or near Carey's,* near the boundary line between townships seven and eight; the second division shall comprise and include townships ten and eleven, and the poll shall be held at or near the Lot eleven mills; the third polling division shall comprise and include townships twelve and thirteen, and the poll shall be held at or near Barlow's mills, township twelve:† in the third electoral district there shall be four polling divisions; the first of which shall comprise and include township fourteen, and the poll shall be held at or near the Catholic Chapel on the said township; the second polling division shall comprise and include township fifteen, and that part of township sixteen west of Ellis River, and the poll shall be held at Joseph Arsneaux's, Abraham's village; the third polling division shall comprise and include all that part of township number sixteen east of Ellis River, and the poll shall be held at or near James Lyle's, on said township; the fourth polling division shall comprise and include township seventeen, and the poll shall be held at the Court-house, Saint Eleanor's;‡ in the fourth electoral district there shall be five polling divisions; the first of which shall comprise and include township number nineteen, and the poll shall be held at or near New Annan, on said township; the second polling division shall comprise and include township number twenty-five, and the poll shall be held at or near the Cross roads, Freetown, on the said township; the third polling division shall comprise and include township number twenty-six and Indian island, and the poll shall be held at or near Hooper's corner, Bedeque, on the said township; the fourth polling division shall comprise and include township number twenty-seven, and the poll shall be held at or near Searletown, on the said township; and the fifth polling division shall comprise and include township twenty-eight, and the poll shall be held at or near the Cross roads, north of Lord's mill bridge, on the said township: and in the first electoral district of Queen's County there shall be six polling divisions; the first of which shall comprise and include those portions of townships numbers twenty and twenty-one north of South-west River, and the poll shall be held at or near Johnston's mill, on township number twenty; the second polling division shall comprise and include those portions of townships numbers twenty and twenty-one south of the South-west river, and the poll shall be held at or near Graham's Cross Roads, on township number twenty-one; the third polling division shall comprise and include township number twenty-two, and the poll shall be held at or near Joseph Doyle's, Millvale road, on the said township; the fourth polling division shall comprise and include township number sixty-seven, and the poll shall be held at or near the Church, Anderson's road, on the said township; the fifth polling division shall comprise and include township twenty-nine, and the

* See 24 Vic., c. 34, s. 8.

† See 24 Vic., c. 34, s. 4 and 6.

poll shall be held at or near McAlder's forge, on the said township; and the sixth polling division shall comprise and include township number thirty, and the poll shall be held at or near McNevin's, Bonshaw bridge, on the said township: and in the second electoral district there shall be five polling divisions; the first of which shall comprise and include township number twenty-three, and the poll shall be held at or near New Glasgow bridge, on the said township; the second polling division shall comprise and include township number twenty-four and Peter's island, and the poll shall be held at or near Wheatley River bridge, on the said township; the third polling division shall comprise and include township number thirty-one, and that portion of township sixty-five north of Elliot River, and the poll shall be held at or near Parker's schoolhouse, New Wiltshire settlement, on township thirty-one; the fourth polling division shall comprise and include township number thirty-two, and the poll shall be held at or near John McPhee's, York River, on said township; and the fifth polling division shall comprise and include that portion of township number sixty-five south of Elliot River, and Saint Peter's island, and the poll shall be held at or near Ladner's mills, Nine Mile creek, on township number sixty-five: and in the third electoral district of Queen's County there shall be five polling divisions; the first of which shall comprise and include township number thirty-three, and the poll shall be held at Thomas Rodd's, Brackley point road, on the said township; the second polling division shall comprise and include township number thirty-four, and the poll shall be held at or near the Old Saw mill bridge, Covehead road, on the said township; and the third polling division shall comprise and include those parts of townships numbers thirty-five, thirty-six and thirty-seven situate on the north side of the Hillsborough, and the poll shall be held at or near MacKenzie's, Scotch Fort, on township number thirty-six; the fourth polling division shall comprise and include those portions of townships numbers thirty-six and thirty-seven situate on the south side of the Hillsborough River, and the poll shall be held at or near Clark's mills, township thirty-seven; and the fifth polling division shall comprise and include township number forty-eight and that portion of township thirty-five situate on the south side of the Hillsborough, and the poll shall be held at or near Robert Mutch's, on township number forty-eight: and in the fourth electoral district in Queen's County there shall be five polling divisions; the first of which shall comprise and include township number forty-nine, and the poll shall be held at or near Samuel Lane's, on said township: the second polling division shall comprise and include township number fifty, and the poll shall be held at or near Donald McDonald's (North pole), on the said town-

Polling divisions in second electoral district of Queen's County.

Polling divisions in third electoral district of Queen's County.

Polling divisions in fourth electoral district of Queen's County.

Polling divisions in first electoral district of King's County.

Polling divisions in second electoral district of King's County.

Polling divisions in third electoral district of King's County.

ship; the third polling division shall comprise and include townships numbers fifty-seven, fifty-eight and sixty, which are to the east side of the New Selkirk road, and the poll shall be held at or near the schoolhouse, Alexander McRae's, Murray harbor road; the fourth polling division shall comprise and include all those parts of townships numbers fifty-seven and fifty-eight to the west side of the New Selkirk road, and the poll shall be held at or near the schoolhouse, Portage, near Lauchlan McLean's, on township number fifty-seven; and the fifth polling division shall comprise and include all that part of township number sixty to the south of the New Selkirk road, on township sixty-two, and the poll shall be held at or near John McLeod's, Belle Creek bridge, on township number sixty-two: and in the first electoral district of King's County there shall be three polling divisions; the first of which shall comprise and include township number forty-seven, and the poll shall be held at or near William Collins', Portage, on the said township; the second polling division shall comprise and include townships numbers forty-five and forty-six, and the poll shall be held at or near Angus Campbell's, Mill road, on township number forty-five; and the third polling division shall comprise and include townships numbers forty-three and forty-four, and the poll shall be held at or near Michael Christian's, Line road, on township number forty-three.* in the second electoral district of King's County there shall be three polling divisions, the first of which shall comprise and include townships numbers thirty-eight and thirty-nine, and all that portion of township forty, south of Saint Peter's bay, and the poll shall be held at or near Saint Peter's mills, on township thirty-nine; the second polling division shall comprise and include townships numbers forty-one and forty-two, and that portion of township number forty, north of St. Peter's bay, and the poll shall be held at or near Sutherland's, Head of Saint Peter's bay, on township forty-one; and the third polling division shall comprise and include township number fifty-six, and the poll shall be held at or near Coonahan's, at the Cross roads, on said township: in the third electoral district there shall be three polling divisions; the first of which shall comprise and include township number fifty-one, and the poll shall be held at or near MacLean's, Eighteen mile brook, on the Georgetown Road, on the said township; and the second polling division shall comprise and include townships numbers fifty-two and fifty-three, and the poll shall be held at or near Alley's, at the division line of townships numbers fifty-two and fifty-three; the third polling division shall comprise and include townships numbers fifty-four and fifty-five, and Boughton island, and the poll shall be held at or near Donald McDonald's, head of Narrow's Creek, township fifty-five.† in the fourth electoral district of

† See 24 Vic., c. 34, s. 11.

† See 24 Vic. c. 34, s. 9.

King's County there shall be four polling divisions; the first of which shall comprise and include township number fifty-nine, and the poll shall be held at or near Montague River (lower bridge), on said township; the second polling division shall comprise and include townships numbers sixty-one and sixty-three, and Panmure island, and the poll shall be held at or near the schoolhouse, north end of Mink River road, on township number sixty-one;* the third polling division shall comprise and include township number sixty-four, and the several islands in the harbor of Murray harbour, and the poll shall be held at or near David Creighton's, South River bridge, on said township; and the fourth polling division shall comprise and include township number sixty-six, and the poll shall be held at or near Nicholas Edmund's, on said township.

Polling divisions in fourth electoral district of King's County.

V. The Towns, Commons and Royalties of Charlottetown, Georgetown and Princetown Royalty and Common,* including Township eighteen, and the several islands in Richmond Bay, shall be divided into the several polling divisions as follows:—for Charlottetown, Common and Royalty, one polling division shall comprise and include that part of the Town and Royalty to the westward of Great George street, and the Princetown Road, whereof the polling place shall be at or near the old Court House; one other polling division shall comprise and include that part of the Town, Common and Royalty to the eastward of the said street, and of the said road, whereof the polling place shall be on or near King Square; and for Georgetown there shall be one polling division, which shall include the Town, Common and Royalty and Reserved Land, whereof the polling place shall be at the Court House; for Princetown and Royalty,† township eighteen and the several islands in Richmond Bay, there shall be one polling division, and the poll shall be held at or near Benjamin Woodside's, in Princetown Royalty.

Division of Towns, &c. into polling divisions.

VI. Each Electoral District in this Island shall return two members; Charlottetown, with the Common and Royalty thereof, two members; Georgetown, with the Common and Royalty thereof, and the Reserved Lands adjacent thereto, two members; and Princetown, with the Common and Royalty thereof,† together with township number eighteen and the several islands in Richmond Bay, two members, to serve in the General Assembly of this Island.

Number of members to be returned for each district, town, &c.

VII. Whenever, either on the occasion of a general or partial election, it shall be necessary to issue more than one writ for the election of members to serve in the General Assembly, the several writs shall be transmitted in such manner,

Writs for election of members to be transmitted to Sheriff, so as to be received simultaneously.

* See 25 Vic., c. 34, s. 8.

† See note at foot of page 184.

and at such time, that the same may be received by the respective Sheriffs throughout the Island, as nearly as practicable at one and the same time; and there shall be at least forty days between the teste and return of all writs for the election of members to serve in General Assembly; and every Sheriff shall, immediately on the receipt of every such writ, endorse thereon the day on which he received the same; and every writ hereafter to be issued for the election of a member or members, shall in the body thereof express the day when the Sheriff shall hold his Court for the commencement of such election, due allowance being made for the notices required under this or any other law in respect to every such election, and so as every Sheriff may at least have time of give at least ten days' notice of the election throughout his County, and the day named for holding the Sheriff's Court for commencing the election shall be the same day in all the writs required to be issued in such cases.

Sheriff to have time to give at least ten days' notice of election.

VIII. Every Sheriff forthwith, after the receipt of any writ for the election of a member or members, shall cause public notices in writing, or by printed handbills, to be posted in some of the most public places, within each polling division, in the electoral district, or Town and Royalty, for which, respectively, members are to be elected, which notices shall express the day when the Sheriff will hold his Court, at the County Court-house, for opening such election, being the day named in the writ for that purpose; and also the time and place, at which, in case a poll or polls shall at such Court be demanded, the poll or polls will be taken in the respective polling divisions for the election of so many and such members as ought to be polled for in such respective polling divisions, under the respective writs in the Sheriff's hands; and the poll or polls shall in all cases be taken in the week next following that whereon the Sheriff's Court for opening the election shall be appointed to be held as aforesaid, and on the same day of the week as that appointed for holding such Court as aforesaid, and shall be notified accordingly in the said notices.

Notices to be given by Sheriff.

Time when polling is to take place.

X. On the day so appointed and notified for holding the Sheriff's Court for the commencement and conducting of the election of a member or members, the Sheriff of the County, either in person or by some person by him duly authorized and appointed to preside thereat, shall open, or cause to be opened, as aforesaid, his said Court at the Court House in his County, which in Queen's County shall be at the old Court House in Charlottetown, between the hours of ten and twelve in the forenoon, and shall proceed to read the writ or writs for such election or elections, and so much and such parts of this Act as he may deem it necessary to read, and shall immediately thereafter take and subscribe the following oath:—

On day appointed, Sheriff to open his Court at County Court House, &c.

"I, A. B., do swear, that I have not directly or indirectly received, and will not directly or indirectly receive, any sum of money, office, place or employment, bond, bill or note, gratuity, reward or benefit whatever, either by myself or any other person, to my use, benefit or advantage, for appointing, or having appointed any presiding officer to take the poll, or any poll clerk, or for making any return at the present election or elections, and that I will make all such appointments faithfully and impartially, and will, according to my best judgment in all things to be done by me as Sheriff, or under me, act fairly and impartially, and in all things conform to the provisions of the law, according to the best of my judgment or ability, in the said election or elections.

Oath to be taken by Sheriff.

"So help me God."

Which oath may be administered by any Justice of the Peace, or any two electors of the district then present, being freeholders; and a copy of which oath shall be subscribed and annexed to each writ of election received by him as aforesaid, and returned therewith; and the said Sheriff, or other person duly authorized by him as aforesaid, shall then and there administer to the poll clerk or poll clerks chosen and appointed, as by this Act directed, to assist him in the said election or elections, an oath for the faithful and impartial discharge of his or their duty; and shall, in every case, continue the said Court open until the hour of four o'clock of the afternoon of the same day, and as soon after the said hour of four o'clock in the afternoon of the same day, as the duties then remaining to be performed, as hereinafter mentioned, will permit, finally close the said Court, or adjourn the same to another day, as the case may require.

By whom oath is to be administered to the Sheriff.

XI. The said Sheriff, by himself or other person or persons appointed by him for that purpose, shall at such Court receive the names of such person or persons as shall then be proposed and seconded, as a candidate or candidates, by two or more electors of the Town, Common and Royalty or District, at any time previous to the said hour of four o'clock, in forenoon of the same day; and the names of all such candidates shall be entered by the poll clerk, under the direction of the Sheriff or such other person so appointed as aforesaid, in a book to be provided for that purpose; and no candidate's name shall be received or entered after the said hour of four of the clock on that day, and at or immediately after the said hour, the Sheriff, or such other person appointed as aforesaid, shall proclaim the name or names of the candidate or candidates proposed and seconded as aforesaid for election, in pursuance of the writ or writs in virtue of which the said election or elections is or are being then and there held; and shall administer and receive, as hereinafter directed, the qualifica-

Candidates' names to be entered during holding of Court, and Sheriff to proclaim names and administer oaths, &c.

Mode of proceeding when poll has been demanded.

tion oaths and schedules on the part of any such candidate or candidates, whose qualification may be questioned, and who shall not at such Court, have previously qualified in manner hereinafter mentioned ; and if, at any such Court, there shall be proposed the names of no more candidates than the number of members by such writ or writs required to be returned, it shall be the duty of the said Sheriff or presiding officer appointed as aforesaid, at the time herein limited for the closing of the said Court, to determine the said election, and to proclaim and declare such candidates duly elected to serve as members of the General Assembly, according to the said writ or writs ; and if more than the above number of candidates' names shall have been so received, and a poll or polls shall have been demanded, as hereinafter provided, he shall then and there grant the same, and make proclamation of the time and place at which the same shall be held respectively, in conformity with the notice thereof hereinbefore required to be conditionally given, and in accordance with the provisions of this Act, and shall thereupon adjourn the said Court as to such election or elections, in which a poll shall have been demanded to some day within five days next after the day or days notified for holding the said poll or polls respectively.

Candidate to deliver to Sheriff schedule of his qualification, and take oath, &c.

XII. At every Court to be holden for opening any election as aforesaid, every candidate proposed as aforesaid, if present, shall, before the said Court be determined or adjourned, deliver a schedule to the Sheriff containing the particulars of his qualification, according to law, and at the foot thereof shall subscribe and take the following oath before the said Sheriff or presiding officer, who is hereby required to administer the same :

Candidate's oath.

" I, *A. B.*, do swear, that I am by law qualified to be elected for the [here insert the Town and Royalty or electoral District for which the person is a candidate], and that the foregoing schedule doth contain a full, true and particular account, to the best of my knowledge and belief, of the property in respect whereof I claim a right to be elected, and of my title thereto, and that the said property is for my own use and benefit, and is of the value of fifty pounds clear over and above all incumbrances that affect the same, and that the same hath not been granted or conveyed to me fraudulently on purpose to qualify me to be elected for the said [Town or District, as the case may be.] So help me God."

In case of absence of Candidates a schedule of qualification sworn to by him or his agent, to be so delivered to Sheriff.

And if any candidate shall not be present, a schedule and deposition in writing, in the form hereinbefore prescribed, shall be then and there produced to the Sheriff or presiding officer, signed by such candidate, and by him duly sworn to before one of the Justices of the Supreme Court, or a Justice of the Peace, or before the Sheriff or presiding officer, or otherwise

a schedule signed by an agent either appointed by such candidate or by any number of the electors, of the qualification of such candidate, and also a deposition subscribed by such agent, and made before one of the Justices of the Supreme Court, or a Justice of the Peace, or the Sheriff or presiding officer; which oath the beforenamed persons are hereby empowered and required to administer in the following form :

"I, *A. B.*, do swear that *C. D.*, a candidate for the (Town and Royalty, or District of) is, to the best of my knowledge and belief, qualified to be elected for said (Town and Royalty, or District), and that the foregoing schedule doth contain a full, true and particular account, to the best of my knowledge and belief, of the property in respect whereof the said *C. D.* hath a right to be elected, and of his title thereto; and that the said property is for his own use and benefit, and is of the value of fifty pounds, clear over and above all incumbrances that affect the same; and that the same hath not been granted to him fraudulently on purpose to qualify him to be elected for said (Town and Royalty, or District), to the best of my knowledge and belief. So help me God."

Agent's oath.

And if the qualification of any candidate shall not, before the close or adjournment, as hereinbefore directed, of the Court for opening such election or elections, be specified and verified as hereinbefore directed, any such candidate shall be incapable to be elected at such Court, or to be returned as aforesaid; nor shall the name of any such candidate be entered or recorded in the poll book as aforesaid, or if so entered, the same shall be expunged at or before the close or adjournment of such Court as aforesaid.

If qualification be not duly verified, &c., candidate incapable of being elected.

XIII. At every election of members to serve in General Assembly, at which a poll shall have been duly demanded and granted as aforesaid, a poll shall be opened and held in and for every polling division into which the towns and royalties and electoral districts are hereby divided, at or near the place appointed for that purpose under the provisions of this Act; and the poll shall open and close in all the polling divisions of such towns and royalties, and electoral districts, respectively, at the following hours, that is to say: between the first day of April and the first day of October in any year, both days inclusive, the polls shall be opened between the hours of eight and nine of the clock in the forenoon, and shall not be kept open later than seven of the clock in the afternoon; and between the first day of October and first day of April in any year, the poll shall be opened between the hours of nine and ten of the clock in the forenoon, and shall not be kept open later than five o'clock in the afternoon.

Places for holding polls.

Times of opening and closing polls.

Sheriff to cause
polling booths,
&c., to be erect-
ed.

XIV. The Sheriffs of the respective Counties shall, prior to the polling, cause to be erected temporary booths, or procure some house or other building at or near the respective places appointed for taking the poll, as to such Sheriffs shall from time to time seem necessary for taking the poll in the several polling divisions.

Sheriff to ap-
point persons
as presiding
officers at polls.

XV. At every such election at which a poll shall have been demanded and granted as aforesaid, the Sheriff shall, by precept or warrant under his hand, appoint a presiding officer for presiding at and taking the poll in each polling division within his County, and shall thereby direct such presiding officer, at the time and place appointed, to take the poll within such polling division, and to return his proceedings to the Sheriff without delay; and the Sheriff shall also appoint a poll clerk for taking down the votes under such presiding officer in every such polling division; and the clerk shall prepare a poll book, and enter therein, in separate columns, the names of the respective candidates, and the necessary information regarding the candidates, with their names, which the Sheriff shall furnish before the opening of the poll, to the said presiding officer for the polling division; and such information shall be by them communicated to any electors of the polling division who may ask for the same: provided that nothing herein shall prevent the Sheriff from presiding in person in any polling division.

Presiding offi-
cer must reside
in County
where election
is held.

XVI. No person shall act as presiding officer for any polling division, unless he shall then be a resident in the County in which the election is to be held, and shall have been so resident for one year then next preceding; and the Sheriff shall be liable and responsible for the conduct of all officers by him appointed under this Act.

Duty of presi-
ding officer.

XVII. Every presiding officer shall, at the opening of the poll, read aloud his warrant from the Sheriff for taking the poll, and shall declare the names of the candidates, and shall also, before or at the opening of the poll, and before receiving any votes, take and subscribe the following oath:

Form of presi-
ding officer's
oath.

"I, A. B., do solemnly swear, that I have not directly or indirectly received any sum of money, office, place or employment, gratuity or reward, bond, bill, note or benefit whatsoever, either by myself or any other person, for my use or benefit or advantage, for making any return at the present election of a member or members to serve in the General Assembly, and that I will well and faithfully discharge my duty at the present election to the best of my knowledge and judgment; and I will return to the Sheriff a true and faithful account of the votes polled at the poll now to be opened, at which I am appointed to preside."

And the poll clerk shall also, at or before the opening of the poll, take and subscribe the following oath :

"I, *A. B.*, do solemnly swear, that I have not, directly or indirectly, received any sum of money, office, place or employment, gratuity or reward, or any bond, bill or note, or any promise or gratuity whatsoever, either by myself or any other person, to my use, benefit or advantage, for making any return at the present election of a member or members to serve in the General Assembly, and that I will well and faithfully discharge my duty at the present election, to the best of my knowledge and judgment, and I will faithfully enter and record the votes received at the polling place at which I have been appointed to act as poll clerk."

Form of poll clerk's oath.

Which oaths respectively the Sheriff or any Justice of the Peace for the County where such election shall be held, or any two electors, being freeholders, are hereby authorized and required to administer; and such oaths, so taken and subscribed, shall be prefixed to the poll book and form part thereof.

By whom oaths of presiding officer and poll clerk are to be administered.

XVIII. The presiding officer for the polling division shall appoint one inspector and one clerk, and also one agent or representative, to be nominated by and on behalf of each candidate who shall require and demand the same; and the name of such inspector, clerk and agent, respectively, shall be entered on the poll book by the presiding officer or his clerk; and each clerk so appointed shall take and subscribe the following oath, which the said presiding officer is hereby required to administer :

Presiding officer to appoint an inspector, clerk, and agent.

"I, *A. B.*, do swear, that I will take this poll fairly and impartially, by setting down the names of the electors and the place of their abode, and the names of the candidates for whom they shall give their votes, and also the description they may give of their property and qualification to vote.

Oath of clerk so appointed.

"So help me God."

XX. All persons who, for a period of twelve months before the teste of the writ of election, shall have been occupiers of at least eight acres of reserved lands, called Cardigan Point, marked in the original plan of this Island as part of the Royalty of Georgetown, shall be as heretofore, and they are hereby declared to be entitled to vote as electors of said town and royalty.

Owners, &c., of reserved lands on Cardigan Point may vote as electors for Georgetown.

XXII. The piece of land, lot, warehouse, shop, or other building or premises, in respect of the ownership, possession, or use and occupation of which any person shall be entitled to vote at an election for any town, common and royalty, or

Different premises occupied, &c., in succession for twelve months, to give a right to vote.

electoral district of which the same may form part, within this Island as aforesaid, may be different premises owned or occupied in immediate succession by such person, whether situate in the same polling division or not, during the space of twelve months next previous to the date of the writ of election.

Vote given in a wrong polling division to be struck out of the poll book, &c.

XXV. Every vote given in a polling division wherein the same ought not to have been given, shall be struck out of the poll book, and not counted for the party in whose favor the same may be given: provided always, that in cases where boundary lines between different polling divisions are doubtful, the polling division in which the elector is reputed to reside; or in case of a nonresident elector, the polling division in which the property on which he is reputed to be, shall be deemed and taken to be the polling division on which such elector resides; or in case of a nonresident elector, in which such property lies, for all the purposes of this Act.

Mortgagor or *c' estui qui trust* in possession may vote.

XXIX. Every mortgagor or *c' estui qui trust* in actual possession by himself or his tenant of land or real estate of the yearly value of forty shillings, notwithstanding such mortgage or trust outstanding, and the husband of every woman who may be seised in dower of the land of any deceased husband, where the dower has been actually set off and reduced into possession, and shall be actually of the clear yearly value of forty shillings, shall be entitled and qualified to vote for any town and royalty or electoral district in this Island wherein such land may be situate.

How value mentioned in last preceding section is to be estimated.

XXX. The clear yearly value in the last preceding section mentioned shall be estimated by the value of agricultural or other produce which the land or property actually yields, or by the annual value of the buildings thereon erected.

Fraudulent conveyances to be absolute as against grantors.

XXXII. All fraudulent conveyances of land for the purpose of multiplying votes or to qualify voters at elections, and subject to an agreement to reconvey the same, shall be taken and held against the grantors as free and absolute; and all collateral securities for defeating such estate shall be void; and every person making any such conveyance, or any person voting by color thereof, shall forfeit twenty pounds to any person that may sue for the same.

Sheriff may be elected for any district, &c., not in his County.

XXXIII. The Sheriff of any county in this Island may be elected a member of the Assembly for any town and royalty or electoral district not being within the county for which he shall be Sheriff; nor shall any thing in this or any other Act contained prevent any presiding officer from being so elected, other than for the town and royalty or electoral district for which such presiding officer shall be appointed to act.

XXXIV. No member of the Legislative Council shall canvass for, or vote at the election of any member or members to serve in the General Assembly.

No member of Legislative Council to canvass for or vote at election.

XXXV. If, at any election, any person or persons, at the request of any candidate or candidates at such election, shall furnish or provide to or for any elector or body of electors any meat, drink or entertainment of any kind, the person, so furnishing and providing the same, shall be totally disabled in law from recovering from such candidate or candidates, or from any friend or agent of such candidate or candidates, any reward or payment for such meat, drink, or entertainment so furnished or provided, or any part thereof; and if, upon the trial of any cause, it shall appear that any part of the demand of the plaintiff or plaintiffs, or any set off of the defendant or defendants is for meat, drink, or entertainment so furnished or provided at any election as aforesaid, the Judge or Court before whom such cause may be on trial or tried shall forthwith nonsuit such plaintiff or plaintiffs, and judgment, with costs, shall be given for the defendant or defendants; and in the case of set off as aforesaid being made, no such set off shall be allowed to the defendant or defendants.

Payment for meat, drink, &c., furnished to electors at election at request of candidate, not recoverable.

XXXVI. If any candidate shall furnish, supply, distribute or provide, or willingly permit or allow to be furnished, distributed or provided, directly or indirectly, by or on his behalf or at his expense, or by any ways or means howsoever, to any elector or other person who shall or may claim or pretend to be an elector, any wine, brandy, gin, rum or porter, ale or beer, or any strong or spirituous liquors of any kind or description, during any election, or if any person claiming a right to vote at such election shall directly or indirectly ask, receive or take any money or other reward by way of gift, employment, or other recompense whatsoever for himself or any of his family or kindred, to give his vote or abstain from giving his vote in any such election; or if any person by himself or his friend, by his procurement, or by any person employed by him, shall, by any gift or reward, or by any promise, agreement or security for any gift or reward, corrupt or procure any person or persons to give his or their vote or votes in any such election, or to abstain from giving the same, such person or persons shall for any or either of such offences forfeit the sum of one hundred pounds to the person who will sue for the same.

Penalty on candidate furnishing any wine, &c., or other liquors to electors, and on persons guilty of bribery.

XXXVII. Every person who shall supply or furnish any wine, brandy, gin or porter, ale, beer, or other strong or distilled spirituous liquors of any kind or description to any elector during the continuance of any election within five miles of the place where such election shall be held, shall be liable to a penalty of five pounds.

Penalty on other person furnishing liquors, &c., to elector, &c.

Unlawful to wear or carry at election any offensive weapon, &c.

XXXVIII. It shall be unlawful for any person, unless authorized by law so to do, to wear or carry at any election, or on his journey to or return from any such election, on the day on which such election shall be held, or be intended to be held, any offensive or dangerous weapon or firearms, or any staff, bludgeon, stick, or other instrument, article or thing by which an injury may be wilfully inflicted on any person whomsoever; and every person unlawfully bearing or carrying, or having in his possession at any time as aforesaid any such weapon as aforesaid, shall forthwith, on demand first made, deliver up to any Justice of the Peace, Constable or other peace officer, such weapon or article as aforesaid, and the same shall be forfeited to Her Majesty; and every person who shall, on demand made as aforesaid, refuse to deliver up any such weapon or article as aforesaid, or offend against the provisions of this section, shall forfeit and pay for each and every such offence not less than forty shillings, nor more than five pounds.

Penalty on person using threat to influence election.

XXXIX. And whereas it is expedient that the freedom of election be not infringed by threats either of legal proceedings for debt or any other cause, or of any violence or injury to the person, family or property of any elector being used towards any elector, either at the hustings or subsequently to the publication of the writ of election, or at any time or place while such election is pending, with intent to sway the vote of such elector: Be it therefore enacted, that any threat or prosecution with such intent as aforesaid, and by or on behalf of any candidate, shall, on its being fully proved and established, subject the party using it to a penalty of five pounds currency for each and every offence; and that either the elector towards whom such threats or insinuations may have been used, or any candidate, or any elector, at the said election, may prosecute for the said penalty before any Justice of the Peace or Court of Commissioners for the recovery of small debts for the County, the said prosecution to be commenced within one month after the alleged commission of such offence; and such penalty or penalties shall be paid into the treasury of this Island, the expenses of prosecution to be paid by the party so convicted; but if the prosecution fail in establishing such charge to the satisfaction of the Justice or Court of Commissioners before whom he may bring the complaint, then he shall be liable to all the expenses of the prosecution, including a reasonable sum for the time and travelling expenses of the party prosecuted.

Sheriff, presiding officer, poll clerk, &c. to vote in division in which employed.

XL. The Sheriffs, presiding officers and poll clerks, and each candidate, and the inspector, agent and clerk of each candidate respectively, appointed under this Act, may severally poll all their votes, as well for the town and royalty as for the several electoral districts for which they may severally be

entitled to vote in the polling division in which they may be severally employed in taking or assisting in taking the poll, although the same shall not be the polling division in which they reside or their property lies, if they shall be otherwise qualified to vote: provided the names of such persons shall have been previously entered on the poll book as acting in that capacity; and the presiding officer shall make a special return of all votes given under this section for any town and royalty or district in which the polling division wherein such officer presides is not included; and any objection to be made to any vote or votes contained in such special return may be made, and such vote or votes marked "objected" on the day on which the same are polled, or before or at the casting up of the votes by the Sheriff, on the day of the reopening of his Court as hereinafter mentioned; and the Sheriff shall afford to any person interested in such vote or votes a fair opportunity of examining the poll books, with the view of making such objection, or of marking votes "objected" as aforesaid.

XLI. In taking the poll, it shall be the duty of the presiding officer to prevent all unnecessary delay, and no person shall be permitted to interrupt the polling by addressing the electors, or by any other means; and for avoiding the needless factious questioning of voters, every person offering to poll shall immediately state for whom he votes, and thereupon the candidate against whom he votes, or his inspector or agent, may require the presiding officer to put such necessary and pertinent questions as may be proper, for ascertaining the proposed voter's right to vote in any of the particulars in which that right may be impugned; and the presiding officer shall allow no other question to be put, nor any other person to put such questions, except himself, nor shall he permit the candidate, or any person on his behalf, unnecessarily to protract the time, on pretence of questioning a voter; and the presiding officer shall promptly put such questions, and the poll clerk shall instantly put down in writing the purport of the answers given thereto, and read the same aloud; and the candidate against whom the vote is offered, his inspector or agent, shall be at liberty to require all or any one or more of the oaths, in the schedule to this Act prescribed for voters to be administered, whether such questions, or any of them, shall be put to the voter or not; and if any such voter shall not promptly answer such questions, and take the elector's oath, if required, suited to such elector, the presiding officer shall reject the vote; and if any presiding officer shall allow any other person to interfere or put any question to any voter, by which time is taken up, or shall himself put any other questions, contrary to the wish of any candidate, or his agent or inspector, or shall in any manner wilfully protract the polling at any election, he shall, for every such offence, forfeit a sum not exceeding ten pounds.

Duties of presiding officers at elections, &c.

Penalty on person polling out of his proper division.

XLII. If at any election any person, shall procure himself to be polled out of the polling division at which he ought to be polled, he shall, for every such offence, forfeit the sum of five pounds, and such vote so given shall be struck out of the poll books.

Penalty for voting more than once, or voting under false name, &c.

XLIII. At any election, if any person shall procure himself to be polled more than once at the same election, for the same town and royalty, or electoral district, or shall vote under a false or fictitious name, or personate, or vote in the name of any person, or not being duly qualified to vote and be polled according to law, every such person so offending, in either case as aforesaid, shall, for every such offence, forfeit a sum of five pounds.

Powers given to Sheriff at his Court, and to presiding officers at polls, for preservation of the peace, &c.

XLIV. The Sheriff, at his Court, and the said Sheriff and the presiding officers at the respective polling places at every election, shall be, during the day on which the election or polling takes place, and they are hereby declared to be conservators of the peace, and shall be severally vested with the same powers for the preservation of the peace and the apprehension and committal for trial, and holding to bail, or trying and convicting violators of the law and good order, as are vested in the Justices of the Peace; and for the purpose of keeping the peace, and keeping good order at any election, it shall and may be lawful for any such Sheriff or person presiding as aforesaid, to require the assistance of all Justices of the Peace, constables, and other persons present at such elections, to aid and assist him in doing so; and it shall and may be lawful for any such Sheriff or presiding officer to commit any person for a breach of the peace, violating or threatening any elector at or coming to or returning from any election, or for any other violation of good order, to the custody and charge of any constable or person, on view, for such time as he in his discretion shall or may deem expedient, not exceeding twelve hours, or by a writing under his hand to commit to prison for the like offence, for any period not extending beyond the second day after such day of polling, and at the expiration thereof to cause such person to be brought before some Justice of the Peace of the County, or, (if the offence be committed within the city of Charlottetown), before the Mayor or Police Court, and on inquiry into and investigating the matter, the said Justice, Mayor or Police Court may fine such offender in a sum not exceeding forty shillings and costs, and commit him to the county jail, until such fine shall be paid; and all persons present at the said election are enjoined to aid and assist the officer presiding thereat, and Justices of the Peace, in performing such duties, under pain of being guilty of a misdemeanor, and liable to a punishment therefor; and all Justices of the Peace residing in the district wherein such

election or polling is held, shall, upon being notified in writing by the Sheriff or officer presiding, attend at such election, for the purpose of aiding in preserving the peace and order thereat; and such Sheriff and officer presiding shall and may, when they consider it necessary, appoint and swear any number of special constables to act as peace officers, and assist in maintaining peace and order at such election: provided always, that upon the written application of any candidate or his agent, or of any two or more electors, any Sheriff or presiding officer is hereby required to swear in such special constables as may be requisite and proper.

Proviso.

XLV. Nothing in this Act contained shall prevent any Sheriff, or person acting under him as presiding officer, or otherwise, from closing the poll previous to the expiration of the time fixed by this Act, in any case where the proceedings at any election shall be interrupted or obstructed by any riot or open violence, in which case the Sheriff or person lawfully empowered so to do shall not, for such cause, finally close the poll; but in case the proceedings shall be interrupted or obstructed at any particular polling place or places, he shall adjourn the poll at such place or places only until the following day, and, if necessary, shall further adjourn the same until such interruption or obstruction shall have ceased, when the said Sheriff or presiding officer shall again proceed to take the poll at such place or places; and whenever the poll shall have been so adjourned by the presiding officer, he shall forthwith give notice of such adjournment to the Sheriff, who shall finally declare the state of the poll, or make proclamation of the member or members chosen, until the poll so adjourned at such place or places as aforesaid shall have been finally closed and delivered or transmitted to such Sheriff or returning officer, any thing hereinbefore contained to the contrary notwithstanding.

Sheriff or other officer, in case of riot, &c., not finally to close the poll, but to adjourn same from day to day.

XLVI. In case any presiding officer appointed to take a poll shall, before the final closing of the same, die or become incapable of performing his duty, or shall neglect or refuse to perform the same, his poll clerk shall act in his stead, and finish the polling, and make the return in the same manner as though he had been originally appointed as presiding officer; provided always, that such poll clerk, before entering upon his duties as presiding officer, shall appoint a poll clerk, who, with his said new or acting presiding officer, previous to entering on their duties respectively, shall take and subscribe the oaths required and prescribed by law for presiding officers and poll clerks, and shall be respectively liable to the same penalties as if originally appointed.

In case of death, &c., of presiding officer, poll clerk to act in his stead.

XLVII. If any poll clerk shall, before the closing thereof, die or be incapable of performing his duty, or neglect or re-

In case of death, &c., of

poll clerk, presiding officer to appoint another, who shall be sworn.

refuse to perform the same, the presiding officer shall appoint another poll clerk in his place; and every poll clerk so appointed shall, before entering on his duties, take and subscribe the oath by law prescribed to be taken by poll clerks, and shall have the same powers, and be liable to the same penalties as if originally appointed.

No poll, &c., to be held on Sunday, Christmas day or Good Friday.

XLVIII. No poll shall be opened or held on Christmas day, Sunday or Good Friday, and where the day appointed for anything to be done under this Act shall fall upon either the before named days, the same shall be done on the day following, and notice thereof, where notice is required, shall be given accordingly.

Proclamation to be made before closing the poll.

XLIX. Before the Sheriff or presiding officer shall close the poll so opened, unless with the consent of the candidates, he shall make proclamation for all persons duly qualified by this Act to come forward and give their votes; and if, after such proclamation, no such person or persons shall appear to vote, for the space of one hour, the poll shall be closed.

After close of the poll, presiding officer to take and subscribe oath, &c.

L. Every presiding officer shall, after the close of the poll in his polling division, and before making his return to the precept for taking such poll, take and subscribe in the poll book the following oath, which oath any Justice of the Peace for the County, or any two electors of the town and royalty, or district, being freeholders, are hereby authorized and, on request, required to administer:

Form of such oath.

"I, A. B., presiding officer for polling division in the electoral district, in the County of (or, town and royalty of) do solemnly swear, that to the best of my knowledge and belief, this poll book has been truly and correctly taken, under my direction, and contains a true and correct statement of the votes taken at the poll for the said polling division, held in pursuance of the precept of the Sheriff of the said County, to me directed, (or, to directed, as the case may be), and dated the day of 18 ."

Penalty on presiding officer neglecting to return or altering poll books, &c.

And any such presiding officer who shall neglect or delay, before the opening of the Sheriff's Court on the day to which the same was adjourned for receiving the returns of the polling as aforesaid, to return the poll book to the Sheriff, together with the precept for holding such poll, or shall alter such poll book, shall be liable to an action for damages, at the suit of any party aggrieved, and shall also forfeit, for each and every such offence, the sum of fifty pounds, and shall also forfeit the further sum of five pounds for every day after the said day, during which the said poll book, proceedings and return, or

either of them, shall not be returned and made to the Sheriff as herein required, with costs of suit.

LI. Every poll clerk, after the presiding officer shall have taken the oath in the last preceding section, shall enclose and seal the poll book, and deliver it to the presiding officer at the poll, who shall give a receipt therefor, and shall forthwith return the same, so sealed, with his receipt, to the Sheriff.

Poll Clerk, to seal poll book and deliver it to presiding officer, &c.

LII. The Sheriff shall keep the poll books unopened until the reassembling of his Court on the day to which the same shall have been adjourned, and there he shall openly break the seals thereon and cast up the votes as they appear on the poll books, adding those on the special returns, and shall then openly declare the state of the poll; and if, within one hour after the votes shall have been so cast up as aforesaid, no objection shall be made on the ground of persons having voted in a wrong district or polling division, or more than once, as hereinbefore mentioned, he shall forthwith thereafter proclaim the candidates having the majority of votes as duly elected members, and make return accordingly; but if a candidate, or two electors, being freeholders for the County, Township or Town, Common and Royalty, shall, within the hour, make objection that a person has polled in a wrong district or polling division, or more than once, contrary to the provisions of this Act, and shall require the Sheriff to investigate the objection, the Sheriff shall not then proclaim the members chosen, but shall adjourn to the next day but one thereafter, at ten o'clock in the forenoon, at the same place, and shall then and there proceed and continue from day to day to hear evidence for or against the objections; and if it shall thereupon clearly appear that a person has polled in a wrong district or polling division, or more than once, contrary to the provisions of this Act, the Sheriff shall expunge his vote from the poll book; and shall forthwith thereafter, having ascertained the corrected number of votes, proclaim the candidates having then the majority of votes as duly elected members, and shall return the evidence given on the investigation, with his writ, to be laid before the House of Assembly; but no decision of the Sheriff on the investigation shall conclude any candidate or elector who may petition the House thereon either with or without the prosecution of a general scrutiny. Witnesses on the investigation shall be sworn by the Sheriff.

Sheriff to cast up the votes, and declare the state of the poll, &c.

LIII. If a Sheriff shall falsely expunge a vote from a poll book, or return any person as duly elected, who shall not have the majority of votes on the poll book, or shall be guilty of a violation of this Act, he shall forfeit two hundred pounds.

Penalty on Sheriff for making improper return, &c.

LIV. If, previous to the final declaring of the election, a candidate or his agent shall publicly demand a scrutiny, the

Proceedings of

Sheriff if scrutiny be demanded, &c.

Sheriff shall immediately give notice that, on the day next following, he will attend at a central and convenient place in the District or Town, Common and Royalty, to be then named, and at an appointed hour to proceed to the scrutiny.

If scrutiny persisted in, Sheriff to attend, &c.

LV. When a scrutiny shall be persisted in, the Sheriff shall attend at the appointed time and place with a clerk, and any candidate desiring to proceed in the scrutiny shall then, by himself or his agent, name an elector as Sheriff's assistant, and the Sheriff and his assistant shall then take an oath in the form following:

Oath to be taken by Sheriff and assistant on scrutiny.

"I, A. B., do swear, that I will act impartially in the holding of this scrutiny."

And the oath shall be administered to the Sheriff by a Justice of the Peace, and to the assistants by the Sheriff; and the Clerk shall take an oath in the following form:

Oath to be taken by the Clerk.

"I, A. B., do swear, that I will faithfully perform my duty at this scrutiny."

And such oath shall be administered by the Sheriff.

Time to be appointed for proceeding with the scrutiny.

LVI. The Sheriff and Assistants, after being sworn, shall appoint a time and place for proceeding with the scrutiny, the time not to be less than three days or more than eight days thereafter.

Scrutiny to be continued so long as any party shall tender evidence.

LVII. The Sheriff and his Assistants and Clerk shall, at the time and place appointed, proceed with the scrutiny, and shall continue the same from day to day, so long as any party shall tender evidence.

Sheriff and assistants to determine on reception, &c. of evidence, &c.

LVIII. The Sheriff and Assistants so chosen as aforesaid shall determine upon the reception or rejection of evidence, and shall have each one voice therein, and where equally divided, the Sheriff shall have an additional casting voice.*

Clerk to keep minute of proceedings and evidence.

LIX. The Clerk shall take down in writing and engross the evidence received, and shall minute and keep with the testimony all papers by him received pertaining to such scrutiny.

No vote scrutinized unless previously marked "objected."

LX. No vote shall be scrutinized which shall not have been marked "objected" on the Sheriff's poll book.

Vote objected to for having been polled in wrong polling division may also be scrutinized if marked "objected."

LXI. The circumstance of an investigation having been had on the ground of a vote having been polled in a wrong district or polling division, or more than once, shall not prevent its being scrutinized on other grounds, if marked "objected."

* See 24 Vic. cap. 34, sec. 27.

ed;" and no person shall be a witness touching his own vote; and witnesses shall be sworn by the Sheriff.

LXII. Protests in writing may, at or before the close of the scrutiny, be filed on behalf of any candidate proceeding in the scrutiny in respect of the reception or rejection of evidence; and such protest shall set out specifically, the evidence received or rejected, and the reasons for the dissatisfaction with the decision in reference thereto.

Candidate may protest against improper reception of evidence

LXIII. If the Sheriff shall be unable personally to hold the scrutiny, the deputy Sheriff, or other person specially deputed by the Sheriff, shall hold the same, in the manner and with the rights and subject to the same provisions of this Act as the Sheriff, if present; and if a Sheriff's assistant shall not attend throughout the scrutiny, another elector nominated on behalf of the candidate, by whom the assistant shall have been chosen, shall be sworn and act in his place in like manner; and if the clerk shall at any time not attend, another shall be appointed by the Sheriff in his place, and be sworn and act in like manner, and have the same rights, and be subject to the provisions of this Act relating to such clerks.

If Sheriff cannot hold scrutiny, his deputy, &c., shall do so.

LXIV. The Sheriff shall return to the House of Assembly the engrossed copy of evidence and proceedings held at the scrutiny, with a certificate annexed, under his hand and the hand of his clerk, and also the original papers received at the scrutiny.

Sheriff to return copy of proceedings on scrutiny to House of Assembly.

LXV. The Sheriff shall be entitled to receive ten shillings for every day he shall be actually engaged in holding the scrutiny, from every candidate proceeding therein; and the clerk shall receive sixpence *per folio* of ninety words for the original minutes, and three pence *per folio* for the engrossed copy for the Assembly, the amounts to be paid in equal proportions by the candidates proceeding in the scrutiny; and every candidate proceeding in the scrutiny shall be entitled to receive from the clerk a fair copy of the minutes upon paying therefor three pence *per folio*.

Sheriff's fees on scrutiny.

LXVI. If a candidate who demanded the scrutiny shall, after appointing his assistant, abandon the same, or having gone through the scrutiny, shall not petition the House of Assembly against the election, and enter into the requisite recognition, and proceed in the investigation, the opposing candidate at the scrutiny may, after demand made, recover from him by action in the Supreme Court, for money paid, the expenses incurred for Sheriff's and Clerk's fees at the scrutiny, and for the engrossing of papers and necessary attendance of witnesses thereat; the expenses to be taxed, and the just amount thereof determined on proof on affidavit before a

If a candidate, after demanding a scrutiny, &c., do not petition House of Assembly, costs may be recovered by opposite party, &c.

Judge of the Supreme Court, after reasonable notice to the opposite party, according to the rates established in the Supreme Court.

Regulates the amount of costs to be paid where votes marked "objected" have been found good on scrutiny.

LXVII. Provided always, that in all cases where any candidate, or any elector representing a candidate, shall have objected to the vote or votes of any elector or electors who shall have sworn to his or their qualification, then, in case such vote or votes shall have been found good on scrutiny, the entire expenses of substantiating such vote or votes shall in any event be borne by the candidate or candidates, elector or electors, demanding and persisting in the scrutiny of such vote or votes; and provided also, that in regard to votes found on scrutiny to be bad votes, nothing herein contained shall be construed to entitle any candidate to the expenses of the scrutiny on such bad votes from the person or persons who objected to the same; but the candidate or candidates who shall have accepted the same, and who shall have insisted on the scrutiny of such vote or votes, shall be liable for the expenses attending the same.

If candidates have an equal number of votes Sheriff not to return either as elected.

LXVIII. In the event of any two or more candidates having an equal number of votes at any one election, no Sheriff or other returning officer shall make return as duly elected of any one of such candidates, but shall in every such case return the whole of such candidates having an equal number of votes, with the proceedings thereon, as by this Act directed: provided always, that nothing herein contained shall prevent or be construed to prevent the Sheriff or other authorized person from proceeding on a scrutiny or investigation, as herein provided for.

Security to be given for costs in certain cases.

LXIX. No Sheriff or Returning officer shall be bound to enter upon the scrutiny of any vote or votes unless the candidate or person persisting in such scrutiny shall give to the opposite candidate security, to the Sheriff's or Returning officer's satisfaction, that if such vote or votes be found good, the expenses of rebutting evidence against and maintaining such votes, shall be paid by the person insisting on such scrutiny.

Boundaries for the purposes of this Act.

LXXI. Where the boundaries of any township or county have been altered, ascertained or established under and by virtue of the provisions of the Act of the fourth year of the reign of William the Fourth, chapter fifteen, or of any other law of this Island now in force, such boundaries shall, for all the purposes of this Act, be taken and held to be the only boundaries of such township or county, and all persons shall and are hereby required to vote in their county, township, or polling division, as the same are marked out and defined by and in accordance with such boundary lines; and all persons

Penalty for voting contrary to this Act.

voting out of their county, township or polling division, as the same are defined in accordance with such boundaries, shall be subject to all the fines and penalties imposed by this Act on persons voting out of their proper township, county or polling division, and the votes of such persons shall be expunged and otherwise dealt with, as by this Act directed.

LXXII. Every Sheriff shall, within a reasonable time after demand, furnish a copy of the poll books to any person demanding the same, on being paid his fees therefor, under a penalty of five pounds for neglecting or refusing to furnish the same.

Sheriff to furnish copy of poll books on payment of his fees.

LXXIII. In all cases where, on account of the nonreturn in due time, of any poll book or precept or other document, the Sheriff shall not be prepared to sum up, ascertain and declare the state of the general poll at any election, he, the said Sheriff, instead of proceeding to examine such of the returns as shall have been made, shall further adjourn the Court and proceedings in such election to the following day, and so from day to day until the said precept and poll books shall have been all returned, provided that in proclaiming every such adjournment he shall publicly declare the reason thereof; and provided also, that he shall in no case continue such adjournment, if the House of Assembly be in session, or to so late a day as shall interfere with a due return of the writ in time for the then next meeting of the General Assembly; but in such cases, the Sheriff shall proceed to complete the election and return his writ, as hereinbefore directed, notwithstanding the deficiency of such returns as aforesaid, and shall in his return to the writ mention such deficiency.

Authorizes sheriff to adjourn court until poll books and precepts are all returned.

LXXIV. It shall be lawful for the Sheriff, or any candidate or elector, whenever any precept or warrant shall not be returned as aforesaid, to make complaint, on oath before the Mayor of the City of Charlottetown, or before any Justice of the Peace for the County, as the case may be, of the delay in making such return, and such Mayor or Justice of the Peace shall summon the party complained of to appear before him to answer such complaint; and if he shall not appear, or shall not shew good cause for such delay, the said Justice, or Mayor shall, by warrant, commit him to the county jail, until he shall make due return of his precept or warrant, and his proceedings thereon, agreeably to this Act.

On complaint of delay in returning poll books, &c., return may be compelled by proceedings before Justices, &c.

LXXV. No person shall be capable of being elected a member for any Town and Royalty or district in this Island, unless he shall, for a period of at least twelve calendar months before the teste of the writ for holding the election at which such person shall claim to be elected, have been in the seizin

Qualification of members of Assembly.

or possession of a freehold or leasehold estate within this Island, of the value of fifty pounds, over and above all incumbrances that may affect the same; and shall, before he be presented to take his seat in the House of Assembly, take one of the oaths in the schedule to this Act prescribed for members, relative to a freehold or leasehold estate, as the nature of his qualification may require.

Members, if required, to deliver schedule of qualification to Clerk of House of Assembly.

LXXVI. Every member, if thereto required by order of the House, shall deliver to the Clerk of the House a schedule containing the particulars of his qualification, conformably to this Act, and shall also deliver to the said Clerk the title deeds, documents or papers, under which he claims title to the property in said schedule, or true copies thereof, duly attested.

When seat shall be declared vacant.

LXXVII. If any member of the Assembly shall be absent from his place for one entire session, without leave of the House of Assembly, his seat shall be declared vacant on the first day of the next ensuing session, in case such member shall then be still absent from the Island, and notice of such vacancy shall be given to the Lieutenant Governor, and proceedings thereupon taken as herein directed.

How vacancies in Assembly, by death, resignation, &c., are to be declared.

LXXVIII. Whenever any vacancy or vacancies shall happen in the House of Assembly, by reason of the death of any member or members, or by his or their acceptance of any office or offices, which would by law vacate the seats of members, or by his or their resignation as hereinafter mentioned, it shall be the duty of the Speaker to notify the Lieutenant Governor thereof, who is hereby empowered and required, within seven days after the receipt of such notification as aforesaid, to issue a new writ or writs for the election of a member or members to fill such vacancy or vacancies; and if such vacancy or vacancies as aforesaid shall happen during session, it will be competent for any member, rising in his place, to inform the Speaker thereof; and if such vacancy or vacancies should occur during the recess, then any two members may acquaint the Speaker thereof, by letter under their hands; and in case of the death or absence from the Island of the Speaker, or when such vacancy or vacancies shall occur before a Speaker shall have been chosen by a new House after a general election, any two members may notify the Lieutenant Governor, by letter, of such vacancy or vacancies having occurred, and he shall thereupon cause a new writ or writs to be issued, in the same manner, as if informed by the Speaker, as aforesaid, of such occurrence.

Member of Assembly may resign his seat, &c.

LXXIX. Any member of the present or any future House of Assembly may resign his seat therein, on giving information of such resignation to the Speaker, by letter under his

hand, the signature to which shall be duly certified and authenticated by a notary public; or during the absence from the Island, or on the occasion of the death of the Speaker, then the said information may be given in the manner aforesaid to the Lieutenant Governor or other Administrator of the Government for the time being, and the necessary proceedings shall thereupon be taken for the filling up of such vacancies, as by this Act directed.

LXXXI. Every candidate against whom any vote or votes shall be wrongfully given or polled, or against whom, or to the prejudice of whose interest, or with intent to prejudice whose interest, any act shall be wrongfully done, contrary to this Act, and for which vote or act a penalty or forfeiture is hereby imposed, shall and may, within six months from the commission of the offence, prosecute for the penalty or forfeiture aforesaid; and upon recovery thereof by such candidate, the amount of such penalty, after deducting all expenses and charges to which he shall have been put by reason of such prosecution, shall be paid into the treasury of this Island, to and for the use of the Government thereof; and if no prosecution shall be legally pending, or have been prosecuted to final judgment, then any person whosoever may commence a prosecution for such penalty, at any time after the expiration of six months as aforesaid, and before the expiration of twelve months from the time of the commission of the offence aforesaid; and on the recovery of such penalty on such prosecution last mentioned, one half thereof be paid to the person suing for the same, and the other half into the treasury, for the use of the Government.

Prosecution for penalties by candidates or others, and appropriation of penalties.

LXXXII. Every judgment recovered for a penalty or forfeiture under this Act shall be levied, with full costs, on the goods and chattels, lands and tenements, of the defendant; and in default of sufficient goods and chattels, lands and tenements, the defendant shall be committed to the county jail, there to remain for a period proportioned to the amount of such penalty, that is to say, one week for every pound of such penalty; provided that the imprisonment on any judgment aforesaid shall in no case exceed three months.

Levying of judgments for penalties.

LXXXIII. All penalties and forfeitures imposed by this Act shall and may be sued for and recovered by any person who shall sue for the same, unless where otherwise directed, with full costs; and when the said penalty shall not exceed twenty pounds, the same shall be recovered in a summary manner before two Justices of the Peace for the county or town, or Police Court of the City of Charlottetown, where the offence was committed; from whose judgment either party may appeal to the Supreme Court in the said county, on

Mode of recovering penalties imposed by this Act.

Appeal allowed from judgment of Justice of the Peace.

giving good and sufficient security for the payment of the penalty and costs, (or costs only, as the case may be), in the event of judgment being given against the appellant; and the Supreme Court shall and may try the same, and give judgment therein in such manner as summary causes are tried and adjudicated on; when the penalty sued for shall exceed twenty pounds, the same shall be recoverable by action of debt or other form of action in the Supreme Court; and it shall be sufficient for the plaintiff in any such action in the said Court to set forth in the declaration that the defendant is indebted to him, the said plaintiff, in the amount of the penalty which shall be sought to be recovered in such action, and to allege the particular offence for which such action is brought, and that the defendant hath therein acted contrary to this Act, without mentioning the writ for holding such election or the return thereof; and that, on the trial of any such action, parol proof of such election shall be sufficient *prima facie* evidence, without production of the writ for holding the same; and all penalties imposed by this Act, unless otherwise appropriated, shall, when recovered, be paid one half to the person suing for the same, and the other half into the treasury, for the use of the Government.

Appropriation of penalties.

Fees payable to Sheriff under this Act, &c.

LXXXIV. On the return of each writ, there shall be paid to the Sheriff, in all cases, the sum of thirty shillings for each member returned by him duly elected, and also a reasonable sum for his disbursements in providing booths and polling places, to be paid out of the treasury; and in all cases where there shall be no contest, ten shillings for each candidate; and in all cases, where there shall be a contest and a poll shall be demanded, the sum of twenty shillings from each candidate, instead of the sum of ten shillings, and the sum of twenty shillings for each presiding officer, to include his travelling fees; and the sum of ten shillings for each poll clerk, the same to be paid by the several candidates in equal proportions; but no candidate shall be liable to pay any greater amount in the whole than three pounds, including the expense of erecting hustings, and any proportion above that amount to be paid out of the public treasury; and all the said fees shall be fully paid to the Sheriff on the day of opening his Court as aforesaid; and the name of any candidate, who shall not pay the full amount due from him, before the adjournment of the Sheriff's Court on the day of the opening thereof, shall not be entered on the general poll book or be returned to the presiding officer, under the provisions of this Act.

All fees to be paid to Sheriff on opening of his Court.

Construction of terms used in this Act.

LXXXV. The word "Sheriff" herein shall mean sheriff, under sheriff or deputy sheriff; "presiding officer" shall mean the person presiding to take the poll; "district" shall mean electoral district; and "election" the election of members to

serve in the General Assembly; "town" shall mean town, common and royalty, where the sense requires such construction.

LXXXVI. Every General Assembly of this Island hereafter to be called shall continue for the term of four years from the day of the return of the writs for calling the same, and no longer; subject nevertheless to be sooner prorogued or dissolved by the Lieutenant Governor or other Administrator of the Government for the time being.

Duration of each House of Assembly.

LXXXVII. Nothing in this Act shall have any force or effect, until Her Majesty's assent thereto shall be made known, and notification thereof published in the *Royal Gazette*, nor until the expiration or dissolution of the present House of Assembly.

Suspending clause.

* * This Act received Her Majesty's assent on the 22d day of October, 1856, and notification thereof was published in the *Royal Gazette* newspaper of this Island, on the 27th day of November, 1856; and the then existing House of Assembly was dissolved by proclamation of the Lieut. Governor on the 6th day of May, 1858.

SCHEDULES to which this Act refers.

SCHEDULE (A.)

(Repealed by 24 Vic. cap. 31.)

SCHEDULE (B.)

(Repealed by 24th Vic. cap. 31.)

SCHEDULE (C.)

(Repealed by 24 Vic. cap. 31.)

SCHEDULE (D).

Oath to be taken by a Member before taking his seat in the House of Assembly, if his qualification is freehold estate.

I, A. B., do swear, that I truly and *bona fide* have such a freehold estate on this Island, to and for my own use and benefit, over and above all incumbrances affecting the same, to the value of fifty pounds, as doth qualify me to serve as a member for the town, common and royalty of or the electoral district of (as the case may be), in the County of according to the tenor and true meaning of the statute in such case made and provided. So help me God.

Member's oath when qualification is freehold.

SCHEDULE (E.)

Oath to be taken by a member before taking his seat in the House of Assembly, if his qualification is leasehold estate.

Member's oath when qualification is leasehold.

I, *A. B.*, do swear, that I truly and *bona fide* have such a leasehold estate on this Island, to and for my own use and benefit, over and above all incumbrances affecting the same, of the value of fifty pounds, as doth qualify me to serve as a member for the town, common and royalty of or the electoral district (as the case may be), in the County of according to the true intent and meaning of the statute in such case made and provided.

So help me God.

CAP. XXII.

An Act to facilitate the performance of the duties of Justices of the Peace in this Island, with respect to persons charged with indictable offences.

[Passed April 14, 1856.]

WHEREAS it would conduce much to the improvement of the administration of criminal justice in this Island, if the duties of Justices of the Peace therein, with respect to persons charged with indictable offences, were clearly defined by positive enactment:

For what offences a Justice of the Peace may grant a warrant or summons to cause a person charged therewith to be brought before him.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That in all cases where a charge or complaint (A) is made, before any one or more of Her Majesty's Justices of the Peace for any County in this Island, that any person has committed or is suspected to have committed any treason, felony, or other indictable misdemeanor or offence, within the limits of the jurisdiction of such Justice or Justices of the Peace, or that any person, guilty or suspected to be guilty of having committed any such crime or offence elsewhere out of the jurisdiction of such Justice or Justices, is residing, or being, or is suspected to reside or be within the limits of the jurisdiction of such Justice or Justices, then and in every such case, if the person so charged or complained against shall not then be in custody, it shall be lawful for such Justice or Justices of the Peace to issue his or their warrant (B) to apprehend such person, and to cause him to be brought before such Justice or Justices, or any other Justice or Justices for the same County, to answer such charge or complaint, and to be further dealt with according to law: provided always, that in all cases it shall be lawful for such

Justice or Justices to whom such charge or complaint shall be preferred, if he or they shall so think fit, instead of issuing, in the first instance, his or their warrant to apprehend the person so charged or complained against, to issue his or their summons (C), directed to such person, requiring him to appear before the said Justice or Justices, at the time and place to be therein mentioned, or before such other Justice or Justices of the same County as may be there; and if, after being served with such summons in manner hereinafter mentioned, he shall fail to appear at such time and place, in obedience to such summons, then and in every such case the said Justice or Justices, or any other Justice or Justices of the Peace for the same County, may issue his or their warrant (D) to apprehend such person so charged or complained against, and cause such person to be brought before him or them, or some other Justice or Justices of the Peace for the same County, to answer to the said charge or complaint, and to be further dealt with according to law: provided, nevertheless, that nothing herein contained shall prevent any Justice or Justices of the Peace from issuing his warrant, hereinbefore first mentioned, at any time before or after the time mentioned in such summons for the appearance of the said accused party: it shall be lawful for any Justice or Justices of the Peace to grant or issue any warrant as aforesaid, or any search warrant, on a Sunday, as well as any other day.

II. In all cases when a charge or complaint for any indictable offence shall be made before such Justice or Justices aforesaid, if it be intended to issue a warrant in the first instance against such party or parties so charged, an information and complaint thereof (A) in writing, on the oath or affirmation of the informant, or of some witness or witnesses in that behalf, shall be laid before such Justice or Justices: provided always, that in those cases only when it is intended to issue a summons, instead of a warrant, in the first instance, it shall not be necessary that such information and complaint shall be in writing, or be sworn to or affirmed in manner aforesaid; but in every such case, such information and complaint may be by parol merely, and without any oath or affirmation whatsoever to support or substantiate the same: provided also, that no objection shall be taken or allowed to any such information or complaint, for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution, before the Justice or Justices who shall take the examination of the witnesses on that behalf, as hereinafter mentioned; and if any credible witness shall prove, upon oath, (E), before a Justice of the Peace, that there is reasonable cause to suspect that any property whatsoever, in or with respect to which any

When charge, &c. is made, if a warrant is to be issued, information, &c., must be laid on oath.

larceny or felony shall have been committed, is in any dwelling house, out-house, yard, craft, ship, vessel, boat, or other place or places, the Justice may grant a warrant (E-2) to search such dwelling house, out-house, garden, yard, craft, ship, vessel, boat, or other place or places, for such property.

Upon complaint being laid, Justice receiving same may issue summons or warrant for appearance of person charged.

How summons to be served.

III. Upon such information and complaint being so laid as aforesaid, the Justice or Justices receiving the same may, if he or they shall think fit, issue his or their summons or warrant respectively, as hereinbefore directed, to cause the person charged as aforesaid to be and appear before him or them, or any other Justice or Justices of the Peace for the same County, to be dealt with according to law; and every summons (C) shall be directed to the party so charged in and by such information, and shall state shortly the matter of such information, and shall require the party to whom it is directed to be and appear, at a certain time and place therein mentioned, before the Justice who shall issue such summons, or before such other Justice or Justices of the Peace for the same County as may then be there, to answer to the said charge, and to be further dealt with according to law; and every such summons shall be served by a constable or other peace officer, upon the person to whom it is so directed, by delivering the same to the party personally, or if he cannot conveniently be met with then, by leaving the same for him with some person at his last or most usual place of abode; and the constable or other peace officer who shall have served the same, in manner aforesaid, shall attend at the time and place, and before the Justice or Justices, in the said summons mentioned, to depose, if necessary, to the service of such summons; and if the person so served shall not be and appear before such Justice or Justices, at the time and place mentioned in such summons, in obedience to the same, then it shall be lawful for such Justice or Justices to issue his or their warrant (D) for apprehending the party so summoned, and bringing him before such Justice or Justices, or before some other Justice or Justices for the same County, to answer the charge in the said information and complaint mentioned, and to be further dealt with according to law: provided always, that no objection shall be taken or allowed to any such summons or warrant for any alleged defect therein, in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecutor, before the Justice or Justices who shall take the examination of the witness in that behalf, as hereinafter mentioned; but if any such variance shall appear to such Justice or Justices to be such that the party charged has been thereby deceived or misled, it shall be lawful for such Justice or Justices, at the request of the

party so charged, to adjourn the hearing of the case to some future day, and in the meantime to remand the party so charged, or admit him to bail in manner hereinafter mentioned.

IV. Every warrant (B), hereafter to be issued by any Justice or Justices of the Peace, to apprehend any person charged with any indictable offence, shall be under the hand and seal or hands and seals of the Justice or Justices issuing the same, and may be directed to all or any of the constables or other peace officers of the district within which the same is to be executed, or to such constable and all other constables or peace officers in the County within which the Justice or Justices issuing the same has or have jurisdiction, or generally to all the constables or peace officers within such last mentioned County; and it shall state shortly the offence on which it is founded, and shall name or otherwise describe the offender; and it shall order the person or persons to whom it is directed to apprehend the offender, and bring him before the Justice or Justices issuing such warrant, or before some other Justice or Justices of the Peace for the same County, to answer to the charge contained in the said information, and to be further dealt with according to law; and it shall not be necessary to make such warrant returnable at any particular time; but the same may remain in force until it shall be executed; and such warrant may be executed by apprehending the offender at any place within the County within which the Justice or Justices issuing the same shall have jurisdiction; and in all cases where such warrant shall be directed to all constables or other peace officers within the County within which such Justice or Justices shall have jurisdiction, it shall be lawful for any constable or other peace officer for any place within such County to execute the said warrant, at any place within the jurisdiction for which the said Justice or Justices shall have acted when he or they granted such warrant, in like manner as if such warrant were directed specially to such constable by name, and notwithstanding the place within which such warrant shall be executed, shall not be within the place for which he shall be constable or peace officer: provided always, that no objection shall be taken or allowed to any such warrant for any defect therein, in substance or form, or for any variance between it and the evidence adduced on the part of the prosecution, before the Justice or Justices who shall take the examination of the witnesses in that behalf, as hereinafter mentioned; but if any such variance shall appear to any such Justice or Justices to be such that the party charged has been thereby deceived or misled, it shall be lawful for such Justice or Justices, at the request of the party so charged, to adjourn the hearing of the case to some future day, and in the meantime to remand

Warrant to apprehend parties to be under hand and seal of Justice.

How and where warrant may be executed.

No objection allowed for alleged defect in form, &c.

the party so charged or to admit him to bail in manner hereinafter mentioned.

Regulations as to the backing of warrants.

V. If the person, against whom any such warrant shall be issued as aforesaid, shall not be found within the jurisdiction of the Justice or Justices by whom the same shall be issued, or if he shall escape, go into, reside, or be or be supposed or suspected to be in any place within this Island, out of the jurisdiction of the Justice or Justices issuing such warrant, it shall and may be lawful for any Justice of the Peace, within the jurisdiction of whom such person shall so escape or go, or in which he shall reside or be, or be supposed or suspected to be, upon proof alone being made on oath of any credible person, that he knows or believes it to be the handwriting of the Justice issuing the same, and without any security being given, to make an endorsement (F) on such warrant, signed with his name, authorizing the execution of such warrant within the jurisdiction of the Justice making such endorsement, it shall be sufficient authority to the person bringing such warrant, and to all other persons to whom the same was originally directed, also to all constables and other Peace officers of the County where such warrant shall be so endorsed, to execute the same in such other County, and to carry the person against whom such warrant shall have issued, when apprehended, before the Justice or Justices of the Peace, who first issued the said warrant, or before some other Justice or Justices of the Peace for the same County, or before some Justice or Justices of the County, where the offence in the said warrant mentioned appears therein to have been committed: provided always, that if the prosecutor or any of the witnesses on the part of the prosecution shall then be in the County where such person shall have been so apprehended, the constable or other person or persons who shall have so apprehended such person, may, if so directed by the Justice backing such warrant, take and carry him before the Justice who shall have so backed the said warrant, or before some other Justice or Justices for the same County; and the said Justice or Justices may thereupon take the examination of the prosecutor or witness, and proceed in every respect in manner hereinafter directed, with respect to persons charged before a Justice or Justices of the Peace with an offence alleged to have been committed in another County than that in which such persons have been apprehended.

Proviso.

Power of Justices to summon witnesses to attend and give evidence.

VI. If it shall be made to appear to any Justice of the Peace, by the oath or affirmation of any credible person, that any person within the jurisdiction of such Justice is likely to give material evidence for the prosecution, and will not voluntarily appear for the purpose of being examined as a witness, at the time and place appointed for the examination of witnesses

against the accused, such Justice may and is hereby required to issue his summons (C) to such person, under his hand and seal, requesting him to be and appear, at a time and place mentioned in the summons, before the said Justice, or before such other Justice or Justices of the Peace for the same County as shall then be there, to testify what he shall know concerning the charge made against such accused party; and if any person so summoned shall neglect or refuse to appear at the time and place appointed by the said summons, and no just excuse shall be offered for such neglect or refusal, then, after proof upon oath or affirmation of such summons having been served upon such person, either personally or left with some person for him, at his last or most usual place of abode, it shall be lawful for such Justice or Justices, before whom such person should have appeared, to issue a warrant (C-2), under his or their hands and seals, to bring and have such person, at a time and place to be therein mentioned, before the Justice who issued the said summons, or before such other Justice or Justices of the Peace for the same County as shall then be there, to testify as aforesaid; and which said warrant may, if necessary, be backed as hereinbefore is mentioned, in order to its being executed out of the jurisdiction of the Justice who shall have issued the same, or if such Justice shall be satisfied, by evidence upon oath or affirmation, that it is probable, that such person will not attend to give evidence unless compelled to do so, then, instead of issuing such summons, it shall be lawful for him to issue his warrant (G-3), in the first instance, and which, if necessary, may be backed as aforesaid; and if, on the appearance of such person so summoned before the said last mentioned Justice or Justices, either in obedience to the said summons or upon being brought before him or them by virtue of the said warrant, such person shall refuse to be examined, upon oath or affirmation, concerning the premises, or shall refuse to take such oath or affirmation, or having taken such oath or affirmation, shall refuse to answer such questions concerning the premises as shall then be put to him, without any just excuse for such refusal, any Justice of the Peace then present, and having there jurisdiction, may, by warrant (G-4) under his hand and seal, commit the person so refusing to the common jail of the County where such person so refusing shall then be, there to remain and be imprisoned until he shall consent to be examined and to answer concerning the premises; provided such imprisonment shall not exceed sixty days.

If summons not obeyed, warrant may be issued to compel attendance.

Persons appearing on summons, &c., refusing to be examined, to be committed.

VII. In all cases where any person shall appear or be brought before any Justice or Justices of the Peace, charged with any indictable offence, whether committed upon this Island, or upon the high seas, or on land beyond the sea, or

As to examination of witness in presence of accused party, &c.

Justice to administer oath or affirmation to witness.

Depositions of persons who have died or who are absent may, in certain cases, be read in evidence at the trial.

After examination of witnesses, Justice is to read to the accused the depositions taken against him, &c.

whether such person appear voluntarily upon summons, or has been apprehended with or without warrant, or be in custody for the same or any other offence, such Justice or Justices, before he or they shall commit such accused person to prison for trial, or before he or they shall admit him to bail, shall, in the presence of such accused person, who shall be at liberty to put questions to any witness produced against him, take the statement (H), on oath or affirmation, of those who shall know the facts and circumstances of the case, and shall put the same in writing, and such depositions shall be read over to and signed respectively by the witnesses who shall have been so examined, and shall be signed also by the Justice or Justices taking the same; and the Justice or Justices before whom any such witnesses shall appear to be examined as aforesaid shall, before such witness is examined, administer to such witness the usual oath or affirmation which such Justice or Justices shall have full power and authority to do; and if, upon the trial of the person so accused as first aforesaid, it shall be proved, upon the oath or affirmation of any credible witness, that any person, whose deposition shall have been taken as aforesaid, is dead, or is so ill as not to be able to travel, and if also it be proved that such deposition was taken in the presence of the person so accused, and that he or his counsel or attorney had a full opportunity of cross-examining the witness, then if such deposition purports to be signed by the Justice by or before whom the same purports to have been taken, it shall be lawful to read such deposition as evidence in such prosecution, without further proof thereof, unless it shall be proved that such deposition was not in fact signed by the Justice purporting to sign the same.

VIII. After the examinations of all the witnesses on the part of the prosecution as aforesaid shall have been completed, the Justice of the Peace, or one of the Justices of the Peace by or before whom such examination shall have been so completed as aforesaid, shall, without requiring the attendance of the witnesses, read or cause to be read to the accused the deposition taken against him, and shall say to him these words, or words to the like effect: "Having heard the evidence, do you wish to say any thing in answer to the charge; you are not obliged to say any thing unless you desire to do so, but whatever you say will be taken down in writing, and may be given in evidence against you upon your trial;" and whatever the prisoner shall then say in answer thereto shall be taken down in writing (I), and read over to him, and shall be signed by the said Justice or Justices, and kept with the depositions of the witnesses, and shall be transmitted with them as hereinafter mentioned; and afterwards, upon the trial of the said accused person, the same may, if necessary, be given in evidence against him, without further proof thereof, unless it

shall be proved, that the Justice or Justices purporting to sign the same did not in fact sign the same: provided always, that the said Justice or Justices, before such accused person shall make any statement, shall state to him, and give him clearly to understand, that he has nothing to hope from any promise of favor, and nothing to fear from any threat, which may have previously been holden out to him to induce him to make any admission or confession of his guilt, and that whatever he may then say may be given in evidence against him upon his trial, notwithstanding any previous promise or threat made by any person or persons whomsoever: provided nevertheless, that nothing herein contained or enacted shall prevent the prosecutor in any case from giving in evidence any admission or confession or other statement of the person accused or charged, made at any time, which by law would be admissible as evidence against such person.

Justice also to inform accused that he has nothing to hope or fear from promise or threat.

IX. It shall be lawful for any such Justice or Justices, before whom any such witness shall be examined as aforesaid, to bind by recognizance (K) the prosecutor and every such witness to appear at the next ensuing term of the Supreme Court, at which the accused is to be tried, then and there to prosecute or prosecute and give evidence, or to give evidence, as the case may be, against the party accused, which said recognizance shall particularly specify the profession, art, mystery or trade of every such person entering into and acknowledging the same, together with his christian and surname, and the township or place of his residence; and the said recognizance being duly acknowledged by the person so entering into the same, shall be subscribed by the Justice or Justices before whom the same shall be acknowledged, and a notice (K-2) thereof, signed by the said Justice or Justices, shall at the same time be given to the person bound thereby; and the several recognizances so taken, together with the written information (if any), the depositions, the statement of the accused, and the recognizance of bail (if any), in every such case, shall be delivered by the said Justice or Justices, or he or they shall cause the same to be delivered to the proper officer of the Court in which the trial is to be had, before or at the opening of the said Court, on the first day of the sitting thereof, or at such other time as the Judge, Justice or person who is to preside at such Court at the said trial, shall order and appoint: provided always, that if any such witness shall refuse to enter into or acknowledge such recognizance as aforesaid, it shall be lawful for the Justice or Justices of the Peace, by his or their warrant, (L-1), to commit him to the common jail for the county in which the accused party is to be tried, there to be imprisoned and safely kept until after the trial of such accused party, unless in the meantime such witness shall duly enter into such recognizance

Power to Justice to bind over prosecutor and witness by recognizance.

Recognizance, &c., to be transmitted to the Court, &c.

Witness refusing to enter into recognizance may be committed.

as aforesaid, before some one Justice of the Peace for the county in which such jail shall be situate: provided nevertheless, that if afterwards, for want of sufficient evidence in that behalf, or other cause, the Justice or Justices before whom such accused party shall have been brought shall not commit him or hold him to bail for the offence with which he is charged, it shall be lawful for such Justice or Justices, or for any other Justice or Justices for the same county, by his or their order (L-2) in that behalf, to order and direct the keeper of such common jail, where such witness shall be so in custody, to discharge him from the same, and such keeper shall thereupon forthwith discharge him accordingly.

Power of Justice to remand accused, from time to time, not exceeding eight days, by warrant.

If remand be for 3 days only, it may be by verbal order.

Party accused may be admitted to bail on the examination being adjourned.

X. If, from the absence of witnesses or from any other reasonable cause, it shall become necessary or advisable to defer the examination or further examination of the witnesses for any time, it shall be lawful to and for the Justice or Justices, before whom the accused shall appear or be brought by his or their warrant (M-1), from time to time, to remand the party accused, for such time as by such Justice or Justices, in their discretion, shall be deemed reasonable, not exceeding eight clear days at any one time, to the common jail of the county for which such Justice or Justices shall then be acting, or if the remand be for a time not exceeding three clear days, it shall be lawful for such Justice or Justices verbally to order the constable or other person in whose custody such party accused may then be, or any other constable or person to be named by the said Justice or Justices in that behalf, to continue or keep such party accused in his custody, and to bring him before the same or such other Justice or Justices as shall be there acting at the time appointed for continuing such examination: provided always, that any such Justice or Justices may order such accused party to be brought before him or them, or before any other Justice or Justices of the Peace for the same county, at any time before the expiration of the time for which such party shall be remanded; and the jailer or officer in whose custody he shall then be shall duly obey such order: provided also, that instead of detaining the said accused party in custody during the period for which such accused party shall be so remanded, any one Justice of the Peace, before whom such party shall so appear to be brought as aforesaid, may discharge him upon his entering into a recognizance (M-2-3), with or without a surety or sureties, at the discretion of such Justice, conditioned for his appearance at the time and place appointed for the continuance of such examination; and if such accused party shall not afterwards appear at the time and place mentioned in such recognizance, then the said Justice, or any other Justice of the Peace who may then and there be present, upon certifying (M-4) upon the back of the recognizance the nonappearance of such ac-

cused party, may transmit such recognizance to the Clerk of the Crown for the County within which such recognizance shall have been taken, to be proceeded upon in like manner as other recognizances; and such certificate shall be deemed sufficient *prima facie* evidence of such nonappearance of the said accused party.

XI. And whereas it often happens, that a person is charged before a Justice of the Peace, with an offence alleged to have been committed in another county than that in which such person has been apprehended, or in which such Justice has jurisdiction, and it is necessary to make provision as to the manner of taking the examination of the witnesses, and of committing the party accused or admitting him to bail in such a case: Be it therefore enacted, that whenever a person shall appear or be brought before a Justice or Justices of the Peace, in the county wherein such Justice or Justices shall have jurisdiction, charged with an offence alleged to have been committed by him, within any county wherein such Justice or Justices shall not have jurisdiction, it shall be lawful for such Justice or Justices, and he or they are hereby requested to examine such witnesses, and receive such evidence in proof of the said charge as shall be produced before him or them, within his or their jurisdiction; and if, in his or their opinion, such testimony and evidence shall be sufficient proof of the charge made against such accused party, such Justice or Justices shall thereupon commit him to the common jail of the county where the offence is alleged to have been committed, or shall admit him to bail, as hereinafter mentioned, and shall bind over the prosecutor (if he have appeared before him or them) and the witnesses by recognizance accordingly as hereinbefore mentioned; but if such testimony and evidence shall not, in the opinion of such Justice or Justices, be sufficient to put the accused party upon his trial for the offence with which he is so charged, then such Justice or Justices shall bind over such witness or witnesses as he shall have examined by recognizance, to give evidence as hereinbefore is mentioned; and such Justice or Justices shall, by warrant (N-1) under his or their hand and seal or hands and seals, order the said accused party to be taken before some Justice or Justices of the Peace in and for the county where the offence is alleged to have been committed, and shall at the same time deliver up the information and complaint, and also the depositions and recognizances so taken by him or them, to the constable who shall have the execution of such last mentioned warrant, to be by him delivered to the Justice or Justices before whom he shall take the accused, in obedience to the said warrant; and which said depositions and recognizances shall be deemed to be taken in the case, and shall be treated, to all intents and purposes, as if they had been taken by or before the said last

If a person be apprehended in one county on charge of an offence committed in another, he may be examined in the former;

and if evidence by deemed sufficient, may be committed to prison.

If insufficient, to be brought before some Justice in the latter county.

As to payment
of expenses of
conveying the
accused into
the proper
County, &c.

mentioned Justice or Justices, and shall, together with such depositions and recognizances as such last mentioned Justices shall take in the matter of such charge against the said accused party, be transmitted to the clerk of the Court, or other proper officer, where the said accused party is to be tried, in the manner and at the time hereinbefore mentioned, if such accused party shall be committed for trial upon the said charge, or shall be admitted to bail; and in case such accused party shall be taken before the Justice or Justices last aforesaid, by virtue of the said last mentioned warrant, the constable or other person or persons, to whom the said warrant shall have been directed, and who shall have conveyed such accused party before such last mentioned Justice or Justices, shall be entitled to be paid his costs and expenses of conveying the said accused party before the said Justice or Justices; and upon the said constable or other person producing the said accused party before such Justice or Justices, and delivering him into the custody of such person as the said Justice or Justices shall direct or name in that behalf, and upon the said constable delivering to the said Justice or Justices the warrant, information, (if any) depositions and recognizances aforesaid, and proving by oath that he knows or believes the handwriting to the same set, to be the handwriting of the Justice or Justices purporting to have subscribed the same, such Justice or Justices, before whom the said accused party is produced, shall thereupon furnish such constable with a receipt or certificate (N-2) of his or their having received from him the body of the said accused party, together with the said warrant, information, (if any) depositions and recognizances, and of his having proved to him or them, upon oath, the handwriting of the Justice who shall have issued the said warrant; and the said constable, on producing such receipt or certificate, shall be entitled to be paid by the Government of this Island all his reasonable charges, costs and expenses of conveying such accused party into such other County and returning from the same.

Justice empowered to admit persons to bail charged with felony and certain misdemeanors.

XII. When any person shall appear before any Justice of the Peace, charged with a felony, or suspicion of felony, and the evidence adduced shall, in the opinion of such Justice, be sufficient to put such accused party on his trial as herein-after mentioned, but shall not furnish such a strong presumption of guilt as to warrant his committal for trial, it shall and may be lawful for such Justice to admit such person to bail, upon his procuring and producing such surety or sureties as in the opinion of such one Justice will be sufficient to ensure the appearance of such person so charged at the time and place when and where he is to be tried for such offence; and thereupon such Justice shall take the recognizance (O-1-2)

of the said accused person, and his surety or sureties conditioned for the appearance of such accused person at the time and place of trial, and that he will then surrender and take his trial, and not depart the Court without leave: provided, firstly, that when the offence committed or suspected to have been committed, is a misdemeanor, any one Justice may admit to bail in manner aforesaid; and such Justice may, at his discretion, require that such bail should justify upon oath as to his or their sufficiency, which oath (O-4) the said Justice is hereby authorized to administer; and in default of such person procuring sufficient bail, then such Justice may commit him to prison, there to be kept until delivered according to law: provided lastly, that no Justice of the Peace shall admit any person to bail accused of treason or murder, nor shall any such person be admitted to bail, except by order of Her Majesty's Supreme Court of Judicature of the said Island, or one of the Judges thereof in vacation; and nothing herein contained shall prevent such last mentioned Judges admitting any person accused of misdemeanor or felony to bail, when they may think it right so to do.

Proviso.

XIII. In all cases where a Justice of the Peace shall admit to bail any person who shall then be in any prison, charged with the offence for which he shall be so admitted to bail, such Justice shall send to or cause to be lodged with the keeper of such prison a warrant of deliverance, (O-3) under his or their hand and seal, or hands and seals, requiring the said keeper to discharge the person so admitted to bail, if he be detained for no other offence; and upon such warrant of deliverance being delivered to or lodged with such keeper, he shall forthwith obey the same.

Where Justice admits a person to bail after commitment, a warrant of deliverance shall be sent, if he is not detained for any other offence.

XIV. When all the evidence offered upon the part of the prosecution against the said accused party shall have been heard, if the Justice or Justices of the Peace then present shall be of opinion, that it is not sufficient to put such accused party upon his trial for any indictable offence, such Justice or Justices shall forthwith order such accused party, if in custody, to be discharged, as to the information then under inquiry; but if, in the opinion of such Justice or Justices, such evidence is sufficient to put the accused party upon his trial for an indictable offence, although it may not raise such a strong presumption of guilt as would induce such Justice or Justices to commit the accused party for trial, without bail, or if the offence with which the party is accused be a misdemeanor, then such Justice shall admit the party to bail as hereinbefore provided; but if the offence be a felony, and the evidence given be such as to raise a strong presumption of guilt, then such Justice or Justices shall, by his or their warrant (P), commit him to the common jail for the County to

If, after hearing evidence against the accused, it is not thought sufficient to put him upon his trial, he shall be discharged.

which he may now by law be committed: or in the case of an indictable offence committed on the high seas, or on land beyond the sea, to the common jail of the County within which such Justice or Justices shall have jurisdiction, to be there safely kept until he shall thence be delivered by due course of law.

Forms in schedule to be deemed valid.

XV. The several forms in the schedules to this Act annexed contained, or forms to the like effect, shall be good, valid and sufficient in law.

Fees to Justices, constables, &c., under this Act.

XVI. For any act done by any Justice of the Peace, constable, or other person in the execution of his office, such Justice, constable or other person shall be entitled to receive and be paid from and by the Government of this Island the sum or sums respectively, and no more, set forth and mentioned in the scale of fees to this Act annexed: provided, that no Justice of the Peace shall be entitled to receive more than twenty shillings in any one case.

All statutes inconsistent herewith repealed.

XVII. From and after the day on which this Act shall commence to take effect, all statutes and parts of statutes, which are contrary to or inconsistent with the provisions of this Act, shall be, and the same are hereby repealed.

When Act to come into operation.

XVIII. This Act shall come into operation and be in force on the first day of July, in the year of our Lord one thousand eight hundred and fifty-six, and not before.

SCHEDULES to which this Act refers.

(A.)

Information and complaint for an indictable offence.

Form of information and complaint for an indictable offence.

Prince Edward Island, } The information and complaint of
County. } C. D., of (yeoman), taken
this day of in the year of our Lord
before the undersigned (one) of Her Majesty's Justices of the
Peace in and for the said County of who saith that,
(&c., state the offence,) Sworn or affirmed before
(me), the day and year first above mentioned, at
J. S. [L. s.]

(B.)

Warrant to apprehend a person charged with an indictable offence.

Form of warrant to apprehend a person charged with an indictable offence.

Prince Edward Island, } To all or any of the constables or
County. } other peace officers in the County
of Whereas A. B., of (laborer,) hath this
day been charged, upon oath before the undersigned (one) of

Her Majesty's Justices of the Peace in and for the said county of _____ for that, he, on _____ at _____ did, &c. (stating shortly the offence.) These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said *A. B.*, and to bring him before (me) or some other of Her Majesty's Justices of the Peace in and for the said county of _____ to answer unto the said charge, and to be further dealt with according to law.

Given under (my) hand and seal this _____ day of _____ at _____ in the County of _____ aforesaid. *J. S.* [L. s.]

(C.)

Summons to a person charged with an indictable offence.

Prince Edward Island, } To *A. B.*, of _____ (laborer.)
County. } Whereas you have this day been charged, before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said county of _____ for that, you, on _____ at _____ &c., (state shortly the offence.) These are therefore to command you, in Her Majesty's name, to be and appear before (me), on _____ at _____ o'clock in the (fore) noon, at _____ or before such other Justice or Justices of the Peace for the same county of _____ as may then be there, to answer to the said charge, and to be further dealt with according to law. Herein fail not.

Summons to a person charged with an indictable offence.

Given under (my) hand and seal this _____ day of _____ in the year of our Lord _____ at _____ in the county of _____ aforesaid.

J. S. [L. s.]

(D.)

Warrant when the Summons is disobeyed.

Prince Edward Island, } To all or any of the constables or
County. } other peace officers in the said county of _____ Whereas on the _____ day of _____ (instant or last past), *A. B.*, of _____ was charged, before (me or us), the undersigned, (or, name the magistrate or magistrates, or, as the case may be), (one) of Her Majesty's Justices of the Peace in and for the said county of _____ for that, (&c., as in the summons,) And whereas, (I or he, the said Justice of the Peace, or we or they, the said Justices of the Peace,) then issued (my, his or their) summons to the said *A. B.*, commanding him, in Her Majesty's name, to be and appear before (me, us, him or them,) at _____ o'clock in the (fore) noon, at _____ or before such other Justice or

Form of warrant when the summons is disobeyed.

Justices of the Peace as should then be there, to answer to the said charge, and to be further dealt with according to law. And whereas the said *A. B.* hath neglected to be or appear at the time and place appointed in and by the said summons, although it hath now been proved to (me), upon oath, that the said summons was duly served upon the said *A. B.* These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said *A. B.*, and bring him before (me) or some other of Her Majesty's Justices of the Peace in and for the said county of _____ to answer the said charge, and to be further dealt with according to law.

Given under (my) hand and seal this _____ day of _____
in the year of our Lord _____ at _____ in the
county of _____ aforesaid.

J. S. [L. S.]

(E.—1.)

Information to obtain a Search Warrant.

Form of information to obtain a search warrant.

Prince Edward Island, } The information of *A. B.*, of the
County. } of _____ in the said county
of _____ (yeoman), taken this _____ day of _____
in the year of our Lord _____ before me, *W. S.*, Esquire,
one of Her Majesty's Justices of the Peace in and for the
county of _____ who saith that on the _____ day
of _____ (insert description of articles stolen), of the
goods and chattels of deponent, were feloniously stolen, taken
and carried away from and out of the (dwelling house, &c.)
of this deponent, at the (county of) aforesaid, by some person
or persons unknown, or, name the person), and that he
hath just and reasonable cause to suspect, and doth suspect,
the said goods and chattels, or some part of them, are concealed
in the (dwelling house, &c.) of *C. D.*, of _____ in
the said county of _____ [Here add the causes of suspicion,
whatever they may be.] Wherefore (he) prays that a search
warrant may be granted to him to search the dwelling house,
&c.) of the said *C. D.* as aforesaid, for the said goods and
chattels so feloniously stolen, taken and carried away as aforesaid.

Sworn or affirmed before me the day and year first above
mentioned, at _____ in the said county of _____

W. S., J. P.

(E.—2.)

Search Warrant.

Form of search warrant.

Prince Edward Island, } To all or any of the constables, or
County. } other peace officers in the county
of _____ Whereas *A. B.* of the _____ of _____ in _____

in the said county of hath this day made oath before me, the undersigned, one of Her Majesty's Justices of the Peace in and for the said county of that on the day of [copy information as far as place of supposed concealment.] These are, therefore, in the name of our Sovereign Lady the Queen, to authorize and require you, and each and every one of you, with necessary assistance, to enter in the day time into the said (dwelling house, &c., of the said, &c.) and there diligently search for the said goods and chattels; and if the same or any part thereof shall be found, upon search, that you bring the goods so found, and also the body of the said *C. D.*, before me or some other Justice of the Peace in and for the said county of to be disposed of and dealt with according to law.

Given under my hand and seal at in the said county of this day of in the year of our Lord one thousand eight hundred and

W. S., J. P. [L. s.]

(F.)

Endorsement in backing Warrant.

Prince Edward Island, } Whereas proof, upon oath, hath this
County. } day been made before me, one of
Her Majesty's Justices of the Peace in and for the said county
of that the name of *J. S.*, to the warrant subscribed, is of
the hand-writing of the Justice of the Peace within mentioned:
I do therefore hereby authorize *W. T.*, who bringeth to me
this warrant, and all other persons to whom this warrant was
originally directed, or by whom it may be lawfully executed,
and also all Constables and other Peace officers of the said
county of to execute the same within the said last
mentioned county of

Form of endorsement in backing a warrant.

Given under my hand this day of in the year of our Lord at in the county of *J. L.*
aforesaid.

(G.—1.)

Summons to a Witness.

Prince Edward Island, } To *E. F.*, of (laborer.)
County. } Whereas information hath been
laid before the undersigned, one of Her Majesty's Justices of the Peace in and for the said county of that *A. B.*
(&c., as in the summons or warrant against the accused,) and
it hath been made to appear to me, upon (oath), that you are
likely to give material evidence for (prosecution.) These are

Summons to a witness.

therefore to require you to be and appear before me on next, at o'clock in the (fore] noon, at or before such other Justice or Justices of the Peace for the same County of as may then be there, to testify what you shall know concerning the said charge so made against the said *A. B.* as aforesaid. Herein fail not.

Given under my hand and seal this day of in the year of our Lord at in the County of aforesaid.

J. S. [L. S.]

(G.—2.)

Warrant when a witness has not obeyed a summons.

Form of warrant when a witness has not obeyed a summons.

Prince Edward Island, } To all or any of the constables or
County. } other peace officers in the said
County of Whereas information having been laid before (one) of Her Majesty's Justices of the Peace in and for the said County of that *A. B.*, (&c., as in the summons,) and it having been made to appear to (me), upon oath, that *E. F.*, of (laborer), was likely to give material evidence for the prosecution, (I) did only issue (my) summons to the said *E. F.*, requiring him to be and appear before (me) on at or before such other Justice or Justices of the Peace for the same County as might then be there, to testify what he should know respecting the said charge so made against the said *A. B.*, as aforesaid. And whereas proof hath this day been made, upon oath, before (me), of such summons having been duly served upon the said *E. F.* And whereas the said *E. F.* hath neglected to appear at the time and place appointed by the said summons; and no just excuse has been offered for such neglect. These are therefore to command you to bring and have the said *E. F.* before (me), on at o'clock in the (fore) noon, at or before such other Justice or Justices of the Peace for the same County as may be then there, to testify what he shall know concerning the said charge so made against the said *A. B.*, as aforesaid.

Given under my hand and seal this day of in the year of our Lord at in the County of aforesaid.

J. S. [L. S.]

(G.—3.)

Warrant for a witness in the first instance.

Warrant for a witness in the first instance.

Prince Edward Island, } To all or any of the constables or
County. } peace officers in the said County

of Whereas information has been laid before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said County of that, (&c., as in the summons,) and it having been made to appear to (me), upon oath, that *E. F.*, of (laborer), is likely to give material evidence for the prosecution, and that it is probable that the said *E. F.* will not attend to give evidence unless compelled to do so: These are therefore to command you to bring and have the said *E. F.* before [me] on at o'clock in the [fore] noon, at or before such other Justice or Justices of the Peace for the same County as may then be there, to testify what he shall know concerning the said charge so made against the said *A. B.* as aforesaid.

Given under my hand and seal this day of in the year of our Lord at in the County aforesaid. *J. S.* [L. s.]

(G.—4.)

Warrant of commitment of a witness for refusing to be sworn or to give evidence.

Prince Edward Island, } To all or any of the constables or
County. } other peace officers in the County
of and to the keeper of the common jail at
in the said County of Whereas *A. B.* was lately charged, before [one] of Her Majesty's Justices of the Peace in and for the said County of for that, [&c., as in the summons]; and it having been made to appear to [me], upon oath, that *E. F.* of was likely to give material evidence for the prosecution: [I] duly issued [my] summons to the said *E. F.*, requiring him to be and appear before me on at or before such other Justice or Justices of the Peace for the same County as should then be there, to testify what he should know concerning the said charge so made against the said *A. B.* as aforesaid; and the said *E. F.* now appearing before me, or being brought before me by virtue of a warrant in that behalf, to testify as aforesaid; and being required to make oath or affirmation as a witness in that behalf, hath now refused so to do, or being duly sworn as a witness, doth now refuse to answer certain questions concerning the premises which are now here put to him, and more particularly the following: without offering any just excuse for such refusal: These are therefore to command you, the said constables, peace officers, or any one of you, to take the said *E. F.*, and him safely convey to the common jail at in the County of aforesaid, and there deliver him to the keeper thereof, together with this precept: And [I] do hereby command you, the said

Warrant of commitment of a witness for refusing to be sworn or give evidence.

keeper of the said common jail, to receive the said *E. F.* into your custody in the said common jail, and him there safely keep for the space of days, for his said contempt, unless he shall in the meantime consent to be examined and to answer concerning the premises; and for so doing this shall be your sufficient warrant.

Given under my hand and seal this day of
in the year of our Lord at in the County
of aforesaid.

J. S. [L. s.]

(H.)

Depositions of witnesses.

Depositions of
witnesses.

Prince Edward Island, } The examination of *C. W.*, of
County. } [farmer,] *E. F.*, of
[laborer,] taken on [oath] this day of in the year
of our Lord at in the County of
aforesaid, before the undersigned, (one) of Her Majesty's Jus-
tices of the Peace for the said County, in the presence and
hearing of *A. B.*, who is charged this day before (me,) for
that he the said *A. B.*, at (&c., describing the offence
as in a warrant of commitment.) This deponent *C. D.*, upon
his (oath) saith as follows: (&c., stating the deposition of the
witness nearly as possible in the words he uses. When his
deposition is completed, let him sign it.) And this deponent
E. F., upon his (oath, saith as follows, &c.)

The above depositions of *C. D.* and *E. F.* were taken and
(sworn) before me, at on the day and year first
above mentioned. *J. S.* [L. s.]

(I.)

Statement of the accused.

Statement of
the accused.

Prince Edward Island, } *A. B.* stands charged before the un-
County. } dersigned, (one) of Her Majesty's
Justices of the Peace, in and for the County aforesaid, this
day of in the year of our Lord for that
the said *A. B.*, on at (&c., as in the caption of
the depositions.) And the said charge being read to the said
A. B., and the witnesses for the prosecution, *C. D.* and *E. F.*,
being severally examined in his presence, the said *A. B.* is
now addressed as follows: "Having read the evidence, do
you wish to say any thing in answer to the charge; you are not
obliged to say any thing, unless you desire to do so; but what-
ever you say will be taken down in writing and may be given
in evidence against you at your trial." Whereupon the said

A. B., saith as follows: (Here state whatever the prisoner may say, and in his very words as nearly as possible. Get him to sign it, if he will.)

A. B.

Taken before me, at _____ the day and year first above mentioned. *J. S.* [L. s.]

(K.—1.)

Recognizance to prosecute or give evidence.

Prince Edward Island; } Be it remembered, That on the
County. } day of _____ in the year of
our Lord _____ *C. D.* of _____ in the County Form of recog-
nizance to pro-
secute or give
evidence.
of (farmer,) (or *C. D.* of _____ street in the town
or city of _____), (surgeon,) personally came before me, one
of Her Majesty's Justices of the Peace in and for the said
County of _____ and acknowledged himself to owe to our
Sovereign Lady the Queen, the sum of _____ of good and
lawful current money of this Island, to be made and levied of
his goods and chattels, lands and tenements, to the use of our
said Lady the Queen, her heirs and successors, if he the said
C. D. shall fail in the condition endorsed.

Taken and acknowledged the day and year first above men-
tioned, at _____ before me. *J. S.* [L. s.]

Condition to prosecute.

The condition of the within (or above) written recognizance is such, that whereas one *A. B.* was this day charged before me, *J. S.*, Justice of the Peace within mentioned, for that (&c., as in the caption of the deposition): if therefore he, the said *C. D.*, shall appear at the next sitting of the Supreme Court, to be holden in and for the County of _____* and there prefer or cause to be preferred, a bill of indictment for the offence aforesaid against the said *A. B.*, and there also duly prosecute such indictment, then the said recognizance to be void or else to stand in full force and effect. Condition to
prosecute.

Condition to prosecute and give evidence.

(Same as the last form down to the asterisk*, and then thus:) And there prefer or cause to be preferred, a bill of indictment against the said *A. B.*, for the offence aforesaid, and duly prosecute such indictment and give evidence thereon, as well to the jurors who shall then enquire into the said offence, as also to those who shall pass upon the trial of the said *A. B.*, then the said recognizance to be void, or else to stand in full force and virtue. Condition to
prosecute and
give evidence.

*Condition to give evidence.***Condition to
give evidence.**

(Same as the last form down to the asterisk*, and then thus:) And there give such evidence as he knoweth, upon a bill of indictment, to be then and there preferred against the said A. B., for the offence aforesaid, as well to the jurors who shall enquire of the said offence, as also to the jurors who shall pass upon the trial of the said A. B., if the said bill shall be found a true bill, then the said recognizance to be void, otherwise to remain in full force and effect.

(K—2.)

*Notice of the said Recognizance to be given to the prosecutor and his witness..***Notice of the
recognizance
to be given to
the prosecutor
and his witness.**

Prince Edward Island, } Take notice that you C. D., of
County. } are bound in the sum of
to appear at the next sitting of the Supreme
Court, to be holden in and for the County of
and then and there (prosecute and) give evidence against A.
B.; and unless you then appear there (prosecute and) give
evidence accordingly, the recognizance entered into by you
will be forthwith levied on you.

Dated this day of one thousand eight
hundred

J. S.

(L—1.)

*Commitment of a witness for refusing to enter into the recognizance.***Commitment of
a witness for
refusing to en-
ter into recog-
nizance.**

Prince Edward Island, } To all or any of the Constables or
County. } other Peace officers in the said
County of and to the keeper of the common jail of the
said County of Whereas A. B. was lately charged
before the undersigned, (or name the Justice of the Peace)
(one) of Her Majesty's Justices of the Peace in and for the
said County of for that (&c., as in the summons to
the witness,) and it having been made to appear to (me) upon
oath, that E. F. of was likely to give material evi-
dence for the prosecution, (I) did only issue my summons to
the said E. F., requiring him to be and appear before (me,)
on at or before such other Justice or Justices
of the Peace as should then be there to testify what he should
know concerning the said charge so made against the said A.
B. as aforesaid; and the said E. F. now appearing before
(me,) (or being brought before (me) by virtue of a warrant in

that behalf to testify as aforesaid,) hath been now examined before (me) touching the premises; but being by (me) required to enter into a recognizance conditioned to give evidence against the said *A. B.*, hath now refused to do so: These are therefore to command you, the said Constables or Peace officers, or any one of you, to take the said *E. F.* and him safely to convey to the common jail at _____ in the County aforesaid, and there deliver him to the said keeper thereof, together with this precept; and I do hereby command you, the said keeper of the said common jail, to receive the said *E. F.* into your custody in the said common jail, there to imprison and safely keep him until after the trial of the said *A. B.* for the offence aforesaid, unless in the meantime the said *E. F.* shall duly enter into such recognizance as aforesaid, in the sum of _____ before some one Justice of the Peace for the said County, conditioned in the usual form, to appear at the next sitting of the Supreme Court (or Court of Oyer and Terminer, or general jail delivery,) to be holden in and for the said County of _____ and then to give evidence before the Grand Jury, upon any bill of indictment which may then and there be preferred against the said *A. B.* for the offence aforesaid, and also to give evidence upon the trial of the said *A. B.* for the said offence, if a true bill should be found against him for the same.

Given under my hand and seal this _____ day of _____
in the year of our Lord _____ at _____ in the County
of _____ aforesaid.

J. S. [L.S.]

(L.—2.)

Subsequent order to discharge the witness.

Prince Edward Island, } To the keeper of the common Jail at
County. } _____ in the County of

aforesaid. Whereas by (my) order dated the _____ day of _____ (instant,) reciting that *A. B.* was lately before then charged before (me) for a certain offence therein mentioned: And that *E. F.* having appeared before (me,) and being examined as a witness for the prosecution in that behalf, refused to enter into a recognizance to give evidence against the said *A. B.*; and I, therefore, thereby committed the said *E. F.* to your custody, and required you safely to keep him until after the trial of the said *A. B.* for the offence aforesaid, unless in the meantime he should enter into such recognizance as aforesaid. And whereas for want of sufficient evidence against the said *A. B.*, the said *A. B.* has not been committed or holden to bail for the said offence, but on the contrary thereof has been since discharged; and it is therefore

Subsequent
order to dis-
charge the wit-
ness.

not necessary that the said *E. F.* should be detained longer in your custody: These are therefore to order and direct you, the said keeper, to discharge the said *E. F.* out of your custody as to the said commitment, and suffer him to go at large.

Given under my hand and seal this day of
in the year of our Lord at in the County
of aforesaid.

J. S. [L. S.]

(M.—1.)

Warrant remanding a prisoner

Form of war-
rant remanding
a prisoner.

Prince Edward Island, } To all or any of the constables or
County. } other peace officers in the said
County of and to the keeper of the (common jail)
at in the said County of Whereas *A. B.*
was this day charged before the undersigned, (one) of Her
Majesty's Justices of the Peace in and for the said County of
for that (&c., as in the warrant to apprehend,) and
it appears to (me) to be necessary to remand the said *A. B.*
These are therefore to command you, the said constables or
Peace officers or any of you, in Her Majesty's name, forthwith
to convey the said *A. B.* to the common jail at in
the said County, and there to deliver him to the keeper there-
of, together with this precept; and I hereby command you,
the said keeper, to receive the said *A. B.* into your custody in
the said (common jail,) and there safely keep him until the
day of (instant,) when I hereby command
you to have him at at o'clock in the (fore)
noon of the same day, before (me) or before some other Justice
or Justices of the Peace for the said County, as may then be
there, to answer further to the said charge, and to be further
dealt with according to law, unless you shall be otherwise
ordered in the meantime.

Given under my hand and seal this day of
in the year of our Lord at in the County
of aforesaid. *J. S.* [L. S.]

(M.—2.)

Recognizance of Bail instead of remand on an adjournment of examination.

Recognizance
of bail instead
of remand on
an adjournment
of examination.

Prince Edward Island, } Be it remembered, that on the
County. } day of in the year of our
Lord *A. B.* of (laborer,) *L. M.* of
(grocer,) and *N. O.* of (butcher,) personally came
before (me,) one of Her Majesty's Justices of the Peace for
the said County, and severally acknowledged themselves to

owe to our Lady the Queen, the several sums following, that is to say: the said *A. B.* the sum of _____ and the said *L. M.* and *N. O.* the sum of _____ each, of good and lawful current money of this Province, to be made and levied of the several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, her heirs and successors, if he the said *A. B.* fail in the condition endorsed.

Taken and acknowledge the day and year first above mentioned, at _____ before me.

J. S.

Condition.

The condition of the within written recognizance is such, that whereas the within bounden *A. B.*, was this day [or on last past,] charged before me for that [&c. as in the warrant.] And whereas the examination of the witnesses for the prosecution in his behalf is adjourned until the day of _____ [instant.] If, therefore, the said *A. B.*, shall appear before me on the said _____ day of _____ [instant,] at _____ o'clock in the forenoon, or before such other Justice or Justices of the Peace for the said County of _____ as may then be there, to answer [further] to the said charge, and to be further dealt with according to law, then the said recognizance to be void or else to stand in full force and virtue.

Condition.

(M—3.)

Notice of Recognizance to be given to the accused and his sureties.

Prince Edward Island, } Take notice that you *A. B.*, of
County. } are bound in the sum of _____
and your sureties *L. M.* and *N. O.*, in the sum of _____
of each that you *A. B.* appear before me, *J. S.*,
one of her Majesty's Justices of the Peace for the County of _____
on the _____ day of _____ [instant,]
at _____ o'clock in the [fore] noon, at _____ or before
such other Justice or Justices of the same County as may be
then there, to answer [further] to the charge made against
you by *C. D.*, and to be further dealt with according to law;
and unless you *A. B.* personally appear accordingly, the recognizance entered into by yourself and sureties will be forthwith levied on you and them.

Notice of recognizance to be given to the accused and his sureties.

Dated this _____ day of _____ one thousand eight hundred and _____

J S.

(M.—4.)

Certificate of nonappearance to be endorsed on the recognizance.

Endorsement.

I hereby certify that the said *A. B.* hath not appeared at the time and place in the above condition mentioned, but therein hath made default by reason whereof the within written recognizance is forfeited.

J. S.

(N—1.)

Warrant to convey the accused before a Justice of the County in which the offence was committed.

Warrant to convey the accused before a Justice of the County in which the offence was committed.

Prince Edward Island, } To all or any of the constables or
County. } other peace officers in the said
County of Whereas *A. B.* of [laborer,] hath this
day been charged before the undersigned, [one] of Her Majesty's Justices of the Peace in and for the County of
for that [as in the warrant to apprehend.] And whereas I have taken the deposition of *C. D.*, a witness examined by [me,] in this behalf, but inasmuch as [I] am informed that the principal witnesses to prove the said offence against the said *A. B.* reside in the County of where the said offence is alleged to have been committed. These are therefore to command you, in Her Majesty's name, forthwith to take and convey the said *A. B.* to the said County of and there carry him before some Justice or Justices of the Peace in and for that County where the offence is alleged to have been committed, to answer further to the said charge before him or them; and [I] hereby further command you, to deliver to the said Justice or Justices the information in this behalf, and also the said deposition of *C. D.*, now given into your possession for that purpose, together with this precept.

Given under my hand and seal this day of in
the year of our Lord at in the County
of aforesaid. *J. S.* [L. s.]

(N—2.)

Receipt to be given to the Constable by the Justice for the County in which the offence was committed.

Receipt to be given to the Constable by the Justice for

Prince Edward Island, } I, *J. P.*, one of Her Majesty's Jus-
County. } tices of the Peace in and for the
County of hereby certify that *W. T.*, constable or
Peace officer of the County of has on this day

of one thousand eight hundred and by virtue of, and in obedience to a warrant of *J. S.*, Esquire, one of Her Majesty's Justices of the Peace in and for the County of produced before me, one *A. B.*, charged before the said *J. S.* with having [&c., state shortly the offence,] and delivered him into the custody of by my direction, to answer to the said charge, and further to be dealt with according to law: And has also delivered unto me the said warrant, together with the information [if any] in that behalf, and the deposition [s.] of *C. D.*, [and of] in the said warrant, mentioned; and that he has also proved to me upon oath the handwriting of the said *J. S.*, subscribed to the same.

the County in which the offence was committed.

Dated the day and year first above mentioned, at in the said County of

J. P.

(O—1.)

Recognizance of Bail.

Prince Edward Island | Be it remembered, that on the County | day of in the year of our Lord *A. B.* of [laborer,] *L. M.* of [grocer,] and *N. O.*, of [butcher,] personally came before [me] the undersigned, one of Her Majesty's Justices of the Peace for the said County, and severally acknowledged themselves to owe to our Lady the Queen the several sums following, that is to say: the said *A. B.*, the sum of and the said *L. M.* and *N. O.* the sum of each, of good and lawful current money of this Island, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, her heirs and successors, if he the said *A. B.*, fail in the condition endorsed.

Recognizance of bail.

Taken and acknowledged the day and year first above mentioned, at before

J. S.

Condition.

The condition of the within written recognizance is such, that whereas the said *A. B.* was this day charged before [me,] the Justice within mentioned, for that [&c., as in the warrant.] If, therefore the said *A. B.*, will appear at the next sitting of the Supreme Court of Judicature, holden in and for the County of and there surrender himself into the custody of the keeper of the common jail there, and plead to such indictment as may be found against him by the Grand jury for and in respect to the charge aforesaid, and take his trial upon the same; and not depart the said Court without leave, then the said recognizance to be void, or else to stand in full force and virtue.

Condition.

(O.—2.)

Notice of the said recognizance to be given to the accused and his bail.

Notice of the said recognizance to be given to the accused and his bail.

Take notice, that you *A. B.*, of are bound in the sum of and your sureties *L. M.* and *N. O.* in the sum of each, that you *A. B.* appear (&c., as in the condition of the recognizance,) and not depart the said Court without leave; and unless you, the said *A. B.*, personally appear and plead, and take your trial accordingly, the recognizance entered into by you and your sureties shall be forthwith levied on you and them.

Dated this day of one thousand eight hundred and *J. S.*

(O.—3.)

Warrant of deliverance on bail being given for a prisoner already committed.

Warrant of deliverance on bail being given for a prisoner already committed.

Prince Edward Island, } To the keeper of the common jail
County. } of the County of

Whereas *A. B.*, late of (laborer,) hath before (me,) one of Her Majesty's Justices of the Peace in and for the said County of entered into his own recognizance, and found sufficient sureties for his appearance at the next sitting of the Supreme Court of Judicature, to be holden in and for the County of to answer our Sovereign Lady the Queen, for that (&c., as in the commitment,) for which he was taken and committed to your said common jail: These are therefore to command you, in Her Majesty's name, that if the said *A. B.* do remain in your custody in the said common jail for the said cause and for no other, you shall forthwith suffer him to go at large.

Given under my hand and seal this day of in the year of our Lord at in the County of aforesaid.

J. S. [L. s.]

(O.—4.)

Oath to be administered to bail on justification.

Form of oath to be administered to bail on justification.

You, *A. B.*, (or *A. B.* and *C. D.*, if more than one surety,) do solemnly swear and affirm, that you (or each of you respectively) are worth the sum of, (the amount mentioned in the recognizance,) over and above all your just debts.

(P.)

Warrant of commitment.

Prince Edward Island, } To all or any of the constables or
County. } other peace officers in the County Warrant of
commitment.
of and to the keeper of the common jail of the County
of at in the said County of Whereas *A. B.*
was this day charged before (me,) *J. S.*, (one) of Her Majes-
ty's Justices of the Peace in and for the said County of
on the oath of *C. D.* of (farmer) and others, for that
(&c., stating shortly the offence.) These are therefore to
command you, the said constables or peace officers, or any of
you, to take the said *A. B.*, and him safely to convey to the
common jail at aforesaid, and there deliver him to the
keeper thereof, together with this precept; and I do hereby
command you, the said keeper of the said common jail, to re-
ceive the said *A. B.* into your custody in the said common
jail, and there safely to keep him until he shall be thence
delivered by due course of law.

Given under my hand and seal this day of
in the year of our Lord at in the County
of aforesaid. *J. S.* [L. s.]

SCALE OF FEES TO WHICH THIS ACT REFERS.

Scale of fees
referred to in
the Act.

JUSTICES' FEES:

	Currency.	Justices' fees.
Information and complaint,	£0 2 6	
Warrant to apprehend,	0 2 6	
Summons to person charged with offence,	0 2 6	
Warrant when summons is disobeyed,	0 3 6	
Information to obtain search warrant,	0 3 6	
Search warrant,	0 3 6	
Endorsement on warrant,	0 2 6	
Summons to witness,	0 2 6	
Warrant when witness has not obeyed summons,	0 3 6	
Warrant for a witness in the first instance,	0 2 6	
Warrant of commitment of a witness,	0 4 0	
Depositions of witnesses for every one hundred words,	0 1 0	
Statement of accused, same rate as for depositions,	0 1 0	
Recognizance to prosecute and give evidence,	0 1 6	
Notice of recognizance,	0 1 6	
Commitment of witness for refusing to enter into recognizance,	0 5 0	
Order to discharge witness,	0 2 6	
Warrant remanding a prisoner,	0 3 6	

Recognizance of bail, instead of remand,	0	2	6
Notice of recognizance to be given to the accused,	0	2	6
Certificate of nonappearance to be endorsed,	0	1	6
Warrant to convey a prisoner before a Justice of the County,	0	2	6
Receipt to be given by Justice to constable,	0	2	6
Recognizance of bail,	0	3	6
Notice of recognizance to be given to accused and bail,	0	1	6
Warrant of deliverance on bail,	0	2	0
Warrant of commitment,	0	3	0

CONSTABLES' FEES :

Constables' fees.	Service of summons,	0	1	0
	Executing warrant,	0	5	0
	Executing search warrant,	0	5	0
	For every mile travelled to serve a summons, warrant or other process,	0	0	3

WITNESSES' FEES :

Witnesses' fees.	For every day's attendance,	0	2	0
	For every mile travelled,	0	0	3

In the event of witnesses attending in more than one cause at the same time, then only one half the above fees in each case.

CAP. XXIII.

An Act to facilitate the performance of the duties of Justices of the Peace with respect to summary convictions and orders.

[Passed April 14, 1856.]

WHEREAS it would conduce much to the improvement of the administration of justice within this Island, so far as respects summary convictions and orders to be made by Her Majesty's Justices of the Peace therein, if the duties of such Justices in respect of such summary convictions and orders were clearly defined by positive enactment :

Where an information is laid or a complaint is made before a Justice of the Peace, that a party has committed an offence, such Justice may

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That in all cases where an information shall be laid before one or more of Her Majesty's Justices of the Peace for any County in this Island, that any person has committed or is suspected to have committed any offence or act within the jurisdiction of such Justice or Justices of the Peace, for which he is liable by law, upon a summary conviction for the same before a Justice or Justices of the Peace, to

be imprisoned or fined or otherwise punished, and also in all cases, where a complaint shall be made to any such Justice or Justices, upon which he or they have or shall have authority by law to make any order for the payment of money or otherwise, then in every such case it shall be lawful for such Justice or Justices of the Peace to issue his or their summons (A), directed to such person, stating shortly the matter of such information or complaint, and requiring him to appear at a certain time and place before the said Justice or Justices, or before such other Justice or Justices for the same County as shall then be there, to answer to the said information and complaint, and to be further dealt with according to law; and every such summons shall be served by a constable, or other peace officer or other person, to whom the same shall be delivered, upon the person to whom it is so directed, by delivering the same to the party personally, or by leaving the same with some person for him, at his last or most usual place of abode; and the constable, peace officer, or person who shall serve the same in manner aforesaid, shall attend at the time and place and before the Justices in the said summons mentioned, to depose, if necessary, to the service of the said summons: provided always, that nothing herein mentioned shall oblige any Justice or Justices of the Peace to issue any such summons in any case where the application for any order of Justices is by law to be made *ex parte*: provided also, that no objection shall be taken or allowed to any information, complaint or summons, for any alleged fact therein, in substance or in form, or for any variance between such information, complaint or summons, and the evidence adduced on the part of the informant or complainant at the hearing of such information or complaint, as hereinafter mentioned; but if any such variance shall appear to the Justice or Justices present and acting at such hearing, to be such that the party so summoned and appearing has been thereby deceived or misled, it shall be lawful for such Justice or Justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day.

issue a summons to such party.

Provide.

In certain cases of variance hearing may be adjourned.

II. If the person so served with a summons as aforesaid shall not be and appear before the Justice or Justices, at the time and place mentioned in such summons, and it shall be made to appear to such Justice or Justices, by oath or affirmation, that such summons was so served, within what shall be deemed by such Justice or Justices to be a reasonable time, before the time therein appointed for appearing to the same, then it shall be lawful for such Justice or Justices, if he or they shall think fit, upon oath or affirmation being made before him or them, substantiating the matter of such information or complaint to his or their satisfaction, to issue his or

If summons be not obeyed, Justice may issue warrant.

If the summons, having been duly served, be not obeyed, the Justice may proceed *ex parte*.

their warrant (B) to apprehend the party so summoned, and to bring him before the same Justice or Justices, or before some other Justice or Justices of the Peace in and for the same County, to answer to the said information or complaint, and to be further dealt with according to law; or upon such information being laid as aforesaid for any offence punishable on conviction, the Justice or Justices, before whom such information shall have been laid, may, if he or they shall think fit, upon oath or affirmation being made before him or them, substantiating the matter of such information to his or their satisfaction, instead of issuing such summons as aforesaid, issue, in the first instance, his or their warrant (C) for apprehending the party against whom such information shall have been so laid, and bringing him before the same Justice or Justices, or before some other Justice or Justices of the Peace in and for the same County, to answer to the said information, and to be further dealt with according to law; or if, where a summons shall be so issued as aforesaid, and upon the day and at the place appointed in and by the said summons for the appearance of the party so summoned, such party shall fail to appear accordingly, in obedience to such summons, then and in every such case, if it be proved upon oath or affirmation to the Justice or Justices then present, that such summons was duly served upon such party a reasonable time before the time so appointed for his appearance as aforesaid, it shall be lawful for such Justice or Justices of the Peace to proceed *ex parte* to the hearing of such information or complaint, and to adjudicate thereon as fully and effectually, to all intents and purposes, as if such party had personally appeared before him or them, in obedience to such summons.

Warrant to be under hand and seal of Justice.

To whom warrant directed.

III. Every such warrant to apprehend a defendant, that he may appear and answer to such information or complaint as aforesaid, shall be under the hand and seal, or hands and seals, of the Justice or Justices issuing the same, and may be directed to all or any of the constables or other peace officers of the County within which the same is to be executed, or to such constable and all other constables within the County within which the Justice or Justices issuing such warrant hath or have jurisdiction, or generally to all constables within such last mentioned County; and it shall state shortly the matter of the information or complaint on which it is founded, and shall name or otherwise describe the person against whom it has been issued; and it shall order the constable or other peace officer to whom it is directed to apprehend the said defendant, and to bring him before one or more Justice or Justices of the Peace, as the case may require, of the same County, to answer the said information or complaint, and to be further dealt with according to law; and that it shall not be necessary

to make such warrant returnable at any particular time, but the same may remain in full force until it shall be executed; and such warrant may be executed by apprehending the defendant at any place within the County within which the Justice or Justices issuing the same shall have jurisdiction; and in all cases in which such warrant shall be directed to all constables or peace officers within the County within which the Justice or Justices issuing the same shall have jurisdiction, it shall be lawful for any constable or peace officer for any place within the limits of the jurisdiction for which such Justice or Justices shall have acted when he or they granted such warrant, to execute such warrant in like manner as if such warrant were directed specially to such constable by name, and notwithstanding that the place within which such warrant shall be executed, shall not be within the place for which he shall be such constable or peace officer; and if the person against whom any such warrant has been issued be not found within the jurisdiction of the Justice or Justices by whom it was issued, or if he shall escape, go into, or reside, or be, or be supposed or suspected to be in any place within this Island, out of the jurisdiction of the Justice or Justices issuing the warrant, any Justice of the Peace within whose jurisdiction such person shall be or be suspected to be as aforesaid, upon proof alone upon oath of the handwriting of the Justice or Justices issuing the warrant, may make endorsement upon it, signed with his name, authorizing the execution of the warrant within his jurisdiction; and such endorsement shall be a sufficient authority to the person bringing the warrant, and to all other persons to whom it was originally directed, and to all constables or other peace officers of the County where the endorsement is made, to execute the same in any place within the jurisdiction of the Justice of the Peace endorsing the same, and to carry the offender, when apprehended, before the Justice or Justices who first issued the warrant, or some other Justice having the same jurisdiction: provided always, that no objection shall be taken or allowed to any such warrant to apprehend a defendant, so issued upon any such information or complaint as aforesaid, under or by virtue of this Act, for any alleged defect therein, in substance or in form, or for any variance between it and the evidence adduced on the part of the informant or complainant, as hereinafter mentioned; but if any such variance shall appear to the Justice or Justices present, and acting at such hearing, to be such that the party so apprehended under such warrant has been thereby deceived or misled, it shall be lawful for such Justice or Justices, upon such terms as he or they shall see fit, to adjourn the hearing of the case to some future day, and in the meantime to commit (D) the said defendant to the common jail of the County within which the said Jus-

Backing of
warrant when
taken into
another juris-
diction, how
performed, and
its effect.

Proviso.

Proviso.

tice or Justices may be acting, or such other custody as the said Justice or Justices shall think fit, or to discharge him upon his entering into a recognizance (E), with or without surety or sureties, at the discretion of such Justice or Justices, conditioned for his appearance at the time and place to which such hearing shall be so adjourned: provided always, that in all cases where a defendant shall be discharged, upon recognizance as aforesaid, and shall not afterwards appear at the time and place in such recognizance mentioned, then the said Justice who shall have taken the said recognizance, or any Justice or Justices who shall then be there present, upon certifying (F) upon the back of the said recognizance the non-appearance of the defendant, may transmit such recognizance to the clerk of the Crown of the County within which such recognizance shall have been taken, to be proceeded upon in like manner as other recognizances; and such certificate shall be deemed sufficient *prima facie* evidence of the nonappearance of the defendant.

Aiders and abettors in the commission of offences punishable on summary conviction, may be dealt with as principals, and where.

IV. Every person who shall aid, abet, counsel or procure the commission of any offence, which is or hereafter shall be punishable on summary conviction, shall be liable to be proceeded against and convicted for the same, either together or with the principal offender, or before or after his conviction; and shall be liable, on conviction, to the same forfeiture and punishment as such principal offender is or shall be by law liable to; and may be proceeded against and convicted either in the County or place where such principal offender may be convicted, or in that in which such offence of aiding and abetting, counselling or procuring, may have been committed.

Power to Justices to summon witnesses to attend and give evidence.

V. If it shall be made to appear to any Justice of the Peace, by the oath or affirmation of any credible person, that any person within the jurisdiction of such Justice is likely to give material evidence on behalf of the prosecutor or complainant or defendant, and will not voluntarily be and appear as a witness at the time and place appointed for the hearing of such information or complaint, such Justice may and is hereby required to issue his summons (G) to such person, under his hand and seal, requiring him to be and appear, at a time and place mentioned in such summons, before the said Justice, or before such other Justice or Justices of the Peace for the same County as shall then be there, to testify what he shall know concerning such information or complaint; and if any person so summoned shall neglect or refuse to appear at the time and place appointed by the said summons, and no excuse shall be offered for such neglect or refusal, then, after proof upon oath or affirmation of such summons having been served upon such defendant, either personally or by leaving the same with some person at his last or most usual

If summons be disobeyed by witness, without just excuse, Justice may issue warrant.

place of abode, it shall be lawful for such Justice or Justices, before whom such person should have appeared, to issue a warrant (G-2) under his or their hands and seals, to bring and have such person, at a time and place therein mentioned, before the Justice who issued the said summons, or before such other Justice or Justices of the Peace for the same County as shall be then there, to testify as aforesaid; and which said warrant may, if necessary, be backed as hereinbefore is mentioned, in order to its being executed out of the jurisdiction of the Justice who issued the same; or if such Justice shall be satisfied, by evidence, on oath or affirmation, that it is probable that such person will not attend to give evidence without being compelled so to do, then instead of issuing such summons, it shall be lawful for him to issue his warrant (G-3) in the first instance, and which, if necessary, shall be backed as aforesaid; and if, on the appearance of the person so summoned before the lastmentioned Justice or Justices, either in obedience to such summons, or upon being brought before him or them by virtue of the said warrant, such person shall refuse to be examined upon oath or affirmation concerning the premises, or shall refuse to take such oath or affirmation, or having taken such oath or affirmation, shall refuse to answer such questions concerning the premises as shall then be put to him, without offering any just excuse for such refusal, any Justice of the Peace then present and having jurisdiction, may, by warrant (G-4) under his hand and seal, commit the person so refusing to the common jail of the County where such person refusing shall then be, there to remain and be imprisoned for any time not exceeding ten days, unless he shall in the meantime consent to be examined and to answer concerning the premises.

Witnesses refusing to be examined may be committed.

VI. In all cases of complaint, upon which a Justice or Justices of the Peace may make an order for the payment of money or otherwise, it shall not be necessary that such complaint shall be in writing, unless it shall be required to be so by some particular Act of Parliament, upon which such complaint shall be framed.

Certain complaints need not be in writing.

VII. In all cases of information for any offences or acts punishable upon summary conviction, any variance between such information and the evidence adduced in support thereof as to the time at which such offence or act shall be alleged to have been committed, shall not be deemed material, if it be proved that such information was in fact laid within the time limited by law for laying the same; and any variance between the said information and the evidence adduced in support thereof, as to the place in which the offence or act shall be alleged to have been committed, shall not be deemed material, provided the offence or act be proved to have been committed

As to any variance between information and the facts or evidence.

If the party charged be deceived by variance between information and evidence, the hearing may be adjourned, &c.

within the jurisdiction of the Justice or Justices by whom such information shall be heard and determined; and if any such variance, or any variance in any other respect, between any such information and the evidence adduced in support thereof, shall appear to the Justice or Justices present and acting at the hearing, to be such that the party charged by such information has been thereby deceived or misled, it shall be lawful for such Justice or Justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day, and in the meantime to commit (D) the said defendant to the common jail, or to such other custody as the said Justice or Justices shall think fit, or to discharge him upon his entering into a recognizance (E), with or without surety or sureties, at the discretion of such Justice or Justices, conditioned for his appearance at the time and place to which such hearing shall be so adjourned: provided always, that in all cases where a defendant shall be discharged, upon recognizance as aforesaid, and shall not afterwards appear at the time and place in such recognizance mentioned, then the said Justice who shall have taken such recognizance, or any other Justice or Justices who may then be there present, upon certifying (F) upon the back of the said recognizance the non-appearance of the defendant, may transmit such recognizance to the Clerk of the Crown of the County within which such recognizance shall have been taken, to be proceeded upon in like manner as other recognizances; and such certificate shall be deemed sufficient *prima facie* evidence of such nonappearance of the said defendant.

Complaint need not be made on oath, except in certain cases.

VIII. Every such complaint upon which a Justice or Justices of the Peace is or shall be authorized by law to make an order, and every information for any offence or act punishable upon summary conviction, (unless some particular Act of the General Assembly shall otherwise permit), shall respectively be laid or made without any oath or affirmation being made of the truth thereof, except in cases of informations where the Justice or Justices receiving the same shall thereupon issue his or their warrant in the first instance to apprehend the defendant as aforesaid; and in every case where the Justice or Justices shall issue his or their warrant in the first instance, the matter of such information shall be substantiated by the oath or affirmation of the informant, or by some witness or witnesses on his behalf, before any such warrant shall be issued; and every such complaint shall be for one matter of complaint only, and not for two or more matters of complaint; and every such information shall be for one offence only, and not for two or more offences; and every such complaint or information shall be laid or made by the complainant or informant in person, or other person authorized in that behalf.

IX. In all cases where no time is already or shall hereafter be specially limited for making any such complaint or laying any such information in the Act or Acts of the General Assembly relating to such particular case, such complaint shall be made and such information laid within six calendar months from the time when the matter of such complaint or information respectively arose.

Time limited
for information
or complaint.

X. Every such complaint or information shall be heard, tried, determined and adjudged by one or two or more Justices of the Peace, as shall be directed by the Act or Acts of the General Assembly upon which such complaint or information shall be framed, or such other Act or Acts of the General Assembly as there may be in that behalf; and if there be no such direction in any such Act of the General Assembly, then such complaint or information may be heard, tried, determined and adjudged by any one Justice for the County where the matter of such information or complaint shall have arisen; and the room or place in which such Justice or Justices shall sit to hear and try such complaint or information shall be deemed an open and public court, to which the public generally may have access, so far as the same can conveniently contain them; and the party against whom such complaint is made or information laid shall be admitted to make his full answer and defence thereto, and to have the witnesses examined and cross-examined; and every complainant and informant in any such case shall be at liberty to conduct such complaint or information respectively. If, at the day and place appointed in and by the summons aforesaid for hearing and determining such complaint or information, the defendant against whom the same shall have been laid or made shall not appear when called, the constable or other person who shall have served him with the summons in that behalf shall then declare upon oath in what manner he served the said summons; and if it appears to the satisfaction of the Justice or Justices that he duly served said summons, in that case such Justice or Justices may proceed to hear and determine the case in the absence of such defendant; or the said Justice or Justices, upon the nonappearance of such defendant as aforesaid, may, if he or they think fit, issue his or their warrant in manner hereinbefore directed, and shall adjourn the hearing of such complaint or information until the said defendant shall be apprehended; and when such defendant shall afterwards be apprehended under such warrant, he shall be brought before the same Justice or Justices, or some other Justice or Justices of the Peace for the same County, who shall thereupon, either by his or their warrant (H.) commit such defendant to the common jail, or if he or they think fit, verbally to the custody of the constable or other person who shall have apprehended him, or to such other safe custody

As to the hear-
ing of com-
plaints and in-
formations.

If defendant
does not ap-
pear, Justice
may adjourn
the hearing till
he is appre-
hended.

If defendant appear, and complainant do not, Justice may dismiss the complaint, &c.;

but if defendant fail to re-appear, the Justice may transmit the recognizance to the clerk of the Crown.

Proceedings on the hearing of complaints and informations.

as he or they shall deem fit, and order the said defendant to be brought up, at a certain time and place, before such Justice or Justices of the Peace as shall then be there, of which said order the complainant or informant shall have due notice; or if, upon the day and at the place appointed as aforesaid, such defendant shall appear voluntarily, in obedience to the summons in that behalf served upon him, or shall be brought before the said Justice or Justices by virtue of any warrant, then if the said complainant or informant, having had due notice as aforesaid, do not appear by himself or his representative, other than an attorney, the said Justice or Justices shall dismiss such complaint or information, unless for some reason he or they shall think proper to adjourn the hearing of the same until some other day, upon such terms as he or they shall think fit, in which case such Justice or Justices may commit (D) the defendant in the meantime to the common jail, or to such other custody as such Justice or Justices shall think fit, or may discharge him upon his entering into a recognizance (E), with or without surety or sureties, at the discretion of such Justice or Justices, conditioned for his appearance at the time and place to which such hearing shall be so adjourned; and if such defendant shall not afterwards appear at the time and place mentioned in such recognizance, then the said Justice who shall have taken the said recognizance, or any Justice or Justices who may then be there present, upon certifying (F) on the back of the recognizance the non-appearance of the defendant, may transmit such recognizance to the clerk of the Crown for the County in which such recognizance shall have been taken, to be proceeded upon in like manner as other recognizances; and such certificate shall be deemed sufficient *prima facie* evidence of such nonappearance of the defendant; but if both parties appear either personally or by his representative, other than an attorney, before the Justice or Justices who are to hear and determine such complaint or information, then the said Justice or Justices shall proceed to hear and determine the same.

XI. Where such defendant shall be present at such hearing, the substance of the information or complaint shall be stated to him, and he shall be asked, if he have any cause to shew, why he should not be convicted, or why an order should not be made against him, as the case may be; and if he thereupon admit the truth of the information or complaint, and shew no cause or sufficient cause why he should not be convicted, or why an order should not be made against him, as the case may be, then the Justice or Justices present at the said hearing shall convict him, or make an order against him accordingly; but if he do not admit the truth of such information or complaint as aforesaid, then the said Justice or Jus-

tices shall proceed to hear the prosecutor or complainant, and such witnesses as he may examine, and such other evidence as he may adduce in support of his information or complaint respectively, and also to hear the defendant and such witnesses as he may examine, and such other evidence as he may adduce in his defence; and also to hear such witnesses as the prosecutor or complainant may examine in reply, if such defendant shall have examined any witness or given any other evidence other than as to his (the defendant's) general character; but the prosecutor or complainant shall not be entitled to make any observations in reply upon the evidence given by the defendant, nor shall the defendant be entitled to make any observations in reply on the evidence given by the prosecutor or complainant in reply as aforesaid; and the said Justice or Justices, having heard what each party shall have to say as aforesaid, and the witnesses and evidence so adduced, shall consider the whole matter and determine the same, and shall convict or make an order upon the defendant, or dismiss the information or complaint, as the case may be; and if he or they convict or make an order against the defendant, a minute or memorandum thereof shall then be made, for which no fee shall be paid, and the conviction (I-1-3) or order (K-1-3) shall afterwards be drawn up by the said Justice or Justices in proper form, under his or their hand and seal, or hands and seals, and he or they shall cause the same to be lodged with the clerk of the Crown; or if the said Justice or Justices shall dismiss such information or complaint, it shall be lawful for such Justice or Justices, when required so to do, to make an order of dismissal of the same (L), and shall give the defendant on that behalf a certificate thereof (M), which said certificate afterwards, upon being produced, without further proof, shall be a bar to any subsequent information or complaint for the same matters respectively against the same party: provided always, that if the information or complaint in any such case shall negative any exemption, exception, proviso or condition, in the statute on which the same shall be framed, it shall not be necessary for the prosecutor or complainant in that behalf to prove such negative, but the defendant may prove the affirmative thereof in his defence, if he would have advantage of the same.

After hearing evidence, Justice to determine the matter.

Proviso.

XII. Before or during such hearing of any information or complaint, it shall be lawful for any one Justice, or for the Justices present, in their discretion, to adjourn the hearing of the same to a certain time and place, to be then appointed and stated in the presence and hearing of the party or parties, or of their respective representative or agent, other than an attorney, then present; and in the meantime the said Justice or Justices may suffer the defendant to go at large, or may com-

Justice may adjourn the hearing of any case, and commit defendant or suffer him to go at large, or discharge him upon his recognisance, with

or without
sureties.

Proviso.

mit (D) him to the common jail or other place of security within the County for which such Justice or Justices shall then be acting, or to such other safe custody as such Justice or Justices may think fit, or may discharge such defendant upon his recognizance (E), with or without sureties, at the discretion of such Justice or Justices, conditioned for his appearance at the time and place to which such hearing or further hearing shall be adjourned; and if, at the time and place to which such hearing or further hearing shall be adjourned, either or both of the parties shall not appear personally, or by his or their representative or agent, other than an attorney, respectively, before the said Justice or Justices, or before such other Justice or Justices as shall then be there, it shall then be lawful for the Justice or Justices then there present to proceed to such hearing or further hearing, as if such party or parties were present, or if the prosecutor or complainant do not appear, the said Justice or Justices may dismiss the said information or complaint, with or without costs, as to such Justice or Justices shall seem fit: provided always, that in all cases, where a defendant shall be discharged upon his recognizance as aforesaid, and shall not afterwards appear at the time and place mentioned in such recognizance, then the said Justice or Justices who shall have taken such recognizance, or any other Justice or Justices who may then be there present, upon certifying (F) on the back of the recognizance the non-appearance of such accused party, may transmit such recognizance to the clerk of the Crown, to be proceeded upon in like manner as other recognizances; and such certificate shall be deemed sufficient *prima facie* evidence of such nonappearance of the said defendant.

Form of convictions and orders to be as in schedule, where no particular form is given in the statute creating the offence.

XIII. In all cases of conviction, where no particular form of such conviction is or shall be given by the statute creating the offence or regulating the prosecution for the same, and in all cases of conviction upon statutes hitherto passed, whether any particular form of conviction have been therein given or not, it shall be lawful for the Justice or Justices who shall so convict, to draw up his or their conviction in such one of the forms of conviction (I-1-3), in the schedule of this Act contained, as shall be applicable to such case, or the like effect; and when an order shall be made, and no particular form of order is or shall be given by the statute giving authority to make such order, and in all cases of orders to be made under the authority of any statute hitherto passed, whether any particular form of order shall therein be given or not, it shall be lawful for the Justice or Justices, by whom such order is to be made, to draw up the same in such one of the forms of orders (K-1-3) in the schedule to this Act contained, as may be applicable to such case, or to the like effect; and in all cases

where, by an Act of the General Assembly, authority is given to commit a person to prison, or to levy any sum upon his goods or chattels by distress, for not obeying any order of a Justice or Justices, the defendant shall be served with a copy of the minute of such order, before any warrant of commitment or distress shall issue in that behalf, and such order or minute shall not form any part of such warrant of commitment or distress.

XIV. In all cases of summary convictions or orders, made by a Justice or Justices of the Peace, it shall be lawful for the Justice or Justices making the same, in his or their discretion, to award and order, in and by such conviction or order, that the defendant shall pay to the prosecutor or complainant, respectively, such costs as to the said Justice or Justices shall seem reasonable in that behalf, and not inconsistent with the table of fees in the schedule to this Act annexed contained, or with any Act or Acts of the General Assembly of this Island, regulating fees or costs in proceedings before Justices of the Peace; and in cases where such Justice or Justices, instead of convicting or making an order aforesaid, shall dismiss the information or complaint, it shall be lawful for him or them, in his or their discretion, in and by his or their order of dismissal, to award and order that the prosecutor and complainant respectively shall pay to the defendant such costs as to the said Justice or Justices shall seem reasonable and according to law as aforesaid; and the sums so allowed for costs shall in all cases be specified in such conviction or order of dismissal as aforesaid; and the same shall be recoverable in the same manner and under the same warrants as any penalty or sum of money adjudged to be paid in and by such conviction or order is to be recoverable; and in cases where there is no such penalty or sum of money to be thereby recovered, then such costs shall be recoverable by distress and sale of the goods and chattels of the party, and in default of such distress, by imprisonment for any time not exceeding one calendar month, unless such costs shall be sooner paid.

Power to Justices to award costs, not inconsistent with the fees to be taken under this or any other Act of the General Assembly.

XV. Where a conviction adjudges a pecuniary penalty or compensation to be paid, or where an order requires the payment of a sum of money, and by the Statute authorizing such conviction or order, such penalty, compensation or sum of money is to be levied upon the goods or chattels of the defendant, by distress and sale thereof, and also in cases where, by the statute in that behalf, no mode of raising or levying such penalty, compensation or sum of money, or of enforcing the payment of the same, is stated or provided, it shall be lawful for the Justice or any one of the Justices making such conviction or order, or any Justice of the Peace for the same

Powers to Justices to issue warrant of distress in cases where a pecuniary penalty &c., has been adjudged.

County, to issue his warrant of distress (N-1-2) for the purpose of levying the same, which said warrant of distress shall be in writing, under the hand and seal of the Justice making the same; and if, after delivery of such warrant of distress to the constable or constables to whom the same shall have been directed, to be executed, sufficient distress shall not be found within the limits of the jurisdiction of the Justice granting such warrant, then, upon proof alone being made upon oath of the handwriting of the Justice granting such warrant, before any Justice of any other County, such Justice of such other County shall thereupon make an endorsement (N-3) on such warrant, signed with his hand, authorizing the execution of such warrant within the limits of his jurisdiction, by virtue of which said warrant and endorsement the penalty or sum aforesaid, and costs, or so much thereof as may not have been before levied or paid, shall and may be levied by the person bringing such warrant, or by the person or persons to whom such warrant was originally directed, or by any constable or other peace officer of such last mentioned County, by distress and sale of the goods and chattels of the defendant in such other County: provided always, that whenever it shall appear to any Justice of the Peace, to whom application shall be made for any such warrant of distress as aforesaid, that the issuing thereof would be ruinous to the defendant and his family, or whenever it shall appear to the said Justice, by confession of the defendant or otherwise, that he hath no goods or chattels whereon to levy such distress, then and in every such case, it shall be lawful for such Justice, if he shall deem it fit, instead of issuing such warrant of distress, to commit such defendant or other person to the common jail of the County within which such Justice or Justices shall then be acting, there to be imprisoned for such time and in such manner as by law such defendant might be so committed, in case such warrant of distress had issued, and no goods or chattels had been found whereon to levy such penalty or sum, and costs, as aforesaid.

When the issuing a warrant would be ruinous to defendant, &c., Justice may commit him to prison.

XVI. In all cases, where a Justice of the Peace shall issue any such warrant of distress, it shall be lawful for him to suffer the defendant to go at large, or verbally, or by a written warrant in that behalf, to order the defendant to be kept and detained in safe custody, until return shall be made to such warrant of distress, unless such defendant shall give sufficient security, by recognizance or otherwise, to the satisfaction of such Justice, for his appearance before him at the time and place appointed for the return of such warrant of distress, or before such other Justice or Justices for the same County as may then be there: provided always, that in all cases when a defendant shall give security by recognizance as aforesaid, and shall not afterwards appear at the time and place in the said

Justice, after issuing warrant, may suffer defendant to go at large, or order him into custody, until return be made, unless he gives security by recognizance, &c.

recognizance mentioned, then the said Justice who shall have taken said recognizance, or any Justice or Justices who may then be there present, upon certifying (F) on the back of the recognizance the nonappearance of the defendant, may transmit such recognizance to the clerk of the Crown, to be proceeded upon in like manner as other recognizances; and such certificate shall be deemed sufficient *prima facie* evidence of such nonappearance of the said defendant.

XVII. If, at the time and place appointed for the return of any such warrant of distress, the constable who shall have had execution of the same shall return (N-4) that he could find no goods or chattels, or no sufficient goods or chattels whereon he could levy the sum or sums therein mentioned, together with the costs of or occasioned by the levy of the same, it shall be lawful for the Justice of the Peace before whom the same shall be returned, to issue his warrant of commitment (N-5), under his hand and seal, directed to the same or any other constable, reciting the conviction or order shortly, the issuing of the warrant of distress, and the return thereto, and requiring such constable to convey such defendant or other person to the common jail of the County for which he shall then be acting as Justice, and there to deliver him to the keeper thereof, and requiring such keeper to receive the defendant into such jail, and there to imprison him in such manner and for such time as shall have been directed by the statute on which the conviction or order mentioned in such warrant of distress was founded, unless the sum or sums adjudged to be paid, and all costs and charges of the distress, and also the cost and charges of the commitment and conveying of the defendant to prison, if such Justice shall think fit so to order, (the amount thereof being ascertained and mentioned in such commitment) shall be sooner paid.

In default of sufficient distress, Justice may commit defendant to prison.

XVIII. Where a Justice or Justices of the Peace shall, upon such information or complaint as aforesaid, adjudge the defendant to be imprisoned, and such defendant shall then be in prison, undergoing imprisonment upon conviction for any other offence, the warrant of commitment for such subsequent offence shall in every case be forthwith delivered to the jailer or other officer to whom the same shall be directed; and it shall be lawful for the Justice or Justices issuing the same, if he or they shall think fit, to award and order therein and thereby, that the imprisonment for such subsequent offence shall commence at the expiration of the imprisonment to which such defendant shall have been previously adjudged or sentenced.

Imprisonment for a subsequent offence to commence at expiration of that for previous offence.

XIX. When any information or complaint shall be dismissed with costs as aforesaid, the sum which shall be award-

If information be dismissed,

costs may be recovered by distress upon prosecutors.

ed for costs in the order for dismissal may be levied by distress (Q-1) on the goods and chattels of the prosecutor or complainant in the manner aforesaid; and in default of distress or payment, such prosecutor or complainant may be committed (Q-2) to the common jail for any time not exceeding one calendar month, unless such sum and all costs and charges of the distress and of the commitment or conveying such prosecutor or complainant to prison, (the amount thereof being ascertained and stated in such commitment), shall be sooner paid.

On payment of penalty, &c., distress not to be levied, or the party, if imprisoned, to be discharged.

XX. In all cases where a warrant of distress shall issue as aforesaid against any person, and such person shall pay or tender to the constable having the execution of the same, the sum or sums in such warrant mentioned, together with the amount of the expenses of such distress up to the time of such payment or tender, such constable shall cease to execute the same; and in all cases where any person shall be imprisoned for nonpayment of any penalty as aforesaid, or other sum, he may pay or cause to be paid, to the keeper of the prison in which he shall be so imprisoned, the sum in the warrant of commitment mentioned, together with the amount of the costs, charges and expenses (if any) therein also stated, and the said keeper shall receive the same, and shall thereupon discharge such person, if he be in his custody for no other matter.

In cases of summary proceedings, one Justice may issue summons, warrant, &c.

XXI. In all cases of summary proceedings, before a Justice or Justices of the Peace, upon any information or complaint as aforesaid, it shall be lawful for one Justice to receive such information or complaint, and to grant a summons or warrant thereon, and to issue his summons or warrant to compel the attendance of any witnesses, and to do all other acts and matters which may be necessary, preliminary to the hearing, even in cases where, by the statute in that behalf, such information and complaint must be heard and determined by two or more Justices; and after the case shall have been so heard and determined, one Justice may issue all warrants of distress or commitment thereon; and it shall not be necessary that the Justice, who so acts before or after such hearing, shall be the Justice or one of the Justices by whom the said case shall be heard or determined: provided always, that in all cases where by statute it is or shall be required, that any such information or complaint shall be heard and determined by two or more Justices, or that a conviction or order shall be made by two or more Justices, such Justices must be present and acting together during the whole of the hearing and determination of the case.

Proviso.

Inconsistent enactments repealed.

XX. From and after the day when this Act shall commence and take effect, all other Acts and parts of Acts, contrary to or inconsistent with the provisions of this Act, shall be, and the same are hereby repealed.

XXIII. The several forms in the schedule to this Act annexed contained, or forms to the like effect, shall be deemed good, valid and sufficient in law.

Forms in schedule to be valid in law.

XXIV. No Justice or Justices of the Peace shall either directly or indirectly demand, take or receive any other or greater fee or fees, for doing any act or thing in the execution of his or their office of Justice of the Peace, than the sum or sums set forth and mentioned in the scale of fees to this Act annexed.

No other or greater fees to be taken by Justices than as allowed by this Act.

XXV. In cases of appeal or writ of *certiorari* from any order or decision of any Justice or Justices of the Peace, no evidence, in addition to that received before such Justice or Justices in the Court below, shall be heard or received in the Supreme Court, unless it shall be made to appear, to the satisfaction of a Judge of the said Supreme Court, that the witness or witnesses then proposed to be produced could not attend the Court below, by reason of sickness or absence from the Island at the time of the hearing of the case before such Justice or Justices.

No evidence in addition to that received in the Court below, shall be given on appeal to Supreme Court, except in certain cases.

XXVI. If the defendant in any suit shall, by the oath of himself or any other credible person, prove that material and necessary witness or witnesses would be produced on his behalf, if time were granted for that purpose, the Justice or Justices of the Peace hearing the case shall, and they are hereby required to adjourn the same to some future day, in the discretion of the Justice or Justices, not exceeding three months, in order to afford the defendant time to bring such witness or witnesses into Court.

On proof on oath of absence of material witness, Justice to postpone case.

XXVII. If any person shall consider himself aggrieved by any order or judgment made or given by any Justice or Justices of the Peace for any County in this Island, or by the Police Court of the city of Charlottetown, under or by virtue of any Act of the General Assembly, or by-law or by-laws of the Council of the said city, it shall and may be lawful for such person to appeal to the next sitting of the Supreme Court of Judicature, to be holden in the County in which such Justice or Justices shall have jurisdiction, or at Charlottetown, if the appeal be from the judgment of the Police Court: provided always, that such appeal be applied for within six clear days next after the day on which such order or judgment shall have been given; and provided also, that the party or his agent applying for the same shall, before the expiration of the said six days, enter into a recognizance (S), with two sufficient sureties, to abide the determination or judgment of the Chief Justice or other Justice of the said Supreme Court; and he or his agent shall make and subscribe an affidavit to the purport and effect (being altered so as to meet the particular

Persons aggrieved by any order or judgment of Justice, or of the Police Court of city of Charlottetown, may appeal to Supreme Court.

Recognizance
to be signed by
parties enter-
ing therein.

circumstances of each case), prescribed in the form in the schedule to this Act annexed, marked (S-2), before such Justice or Justices of the Peace, or his or their Clerk, or before the Mayor, or a Councillor, or Clerk of the said Police Court; and, at the time of taking such recognizance, the Justice or Justices, Mayor, Councillor, or Clerk, before whom the same shall be taken, shall cause the parties entering into the same to sign a condition (S-3) thereto, and shall cause the same to be read over to or repeated by the said parties entering into such recognizance, before signing the same, which condition shall be written on or annexed to the paper on which the recognizance is written, and shall, as well as the recognizance, be attested by such Justice or Justices, Mayor, Councillor or Clerk, and transmitted to the Supreme Court, as hereinafter provided.

Notice of ap-
peal to be given
to respondent.

XXVIII. The appellant or his agent shall also cause to be duly served upon the party respondent, or his agent, ten clear days at least before the sitting of the Supreme Court at which the said appeal is to be tried, a written notice of appeal, in the form (S-4) prescribed in the schedule to this Act annexed; and the said Justice or Justices of the Peace, Mayor or Councilman, is or are hereby required to file the said affidavit with the recognizance and other papers connected with the said appeal, and to transmit the same into the Clerk's office of the said Supreme Court, within the County wherein such Justice or Justices may have jurisdiction, at least four days before the sitting of the said Supreme Court, under a penalty for each and every neglect, of the sum of five pounds to the person aggrieved thereby, to be recovered in the said Supreme Court; and on such appeal, the Chief Justice or other Justice of the Supreme Court, is hereby authorized and empowered to allow costs to the appellant or respondent, as to such Justice shall appear just and proper; and to affirm, quash or otherwise alter or vary the judgment given below, with or without costs, for or against either party, according to the nature of the case; and thereupon to enforce judgment in manner and form prescribed by the Act of the fifteenth year of Her present Majesty's reign, chapter eighth, intituled "An Act relating to the recovery of small debts, and to repeal certain Acts therein mentioned," or by any other Act for the recovery of small debts then in force.

Penalty for ne-
glect to file pa-
pers.

Act in force on
1st July, 1856.

XXIX. This Act shall come into operation and be in force on the first day of July, one thousand eight hundred and fifty-six, and not before.

SCHEDULES to which this Act refers.

(A.)

Summons to the defendant upon an information or complaint.

Prince Edward Island } To *A. B.* of (laborer.) **Summons.**
 County } Whereas information hath this day
 been laid (or complaint hath this day been made) before the
 undersigned (one) of Her Majesty's Justices of the Peace in
 and for the said County, for that you, [here state shortly the
 matter of the information or complaint.] These are therefore
 to command you, in Her Majesty's name, to be and appear on
 at o'clock in the forenoon, at
 before (me) or such Justices of the Peace for the said County as
 may then be there, to answer to the said information (or com-
 plaint), and to be further dealt with according to law.
 Given under (my) hand and seal this day of
 in the year of our Lord at in the County
 of aforesaid.

J. S. [L. S.]

(B.)

Warrant when the summons is disobeyed.

Prince Edward Island, } To all or any of the constables or
 County. } other peace officers in the County **Warrant.**
 of Whereas last past, information was
 laid (or complaint was made) before (one) of Her
 Majesty's Justices of the Peace in and for the said County,
 for that *A. B.*, &c. And whereas (I), the said Justice of the
 Peace, then issued (my) summons unto the said *A. B.*, com-
 manding him, in Her Majesty's name, to be and appear at
 on at o'clock in the (fore)
 noon, at before me or such Justices of the Peace
 as might then be there, to answer unto the said information
 (or complaint), and to be further dealt with according to law:
 And whereas the said *A. B.* hath neglected to be and appear
 at the time and place so appointed in and by the said sum-
 mons, although it hath now been proved to (me) upon oath
 that the said summons hath been duly served upon the said
A. B. These are therefore to command you, in Her Majesty's
 name, forthwith to apprehend the said *A. B.*, and to bring
 him before me or some one or more of Her Majesty's Justices
 of the Peace in and for the said County, to answer to the said

information (or complaint), and to be further dealt with according to law.

Given under (my) hand and seal this day of
in the year of our Lord at in the County
aforesaid.

J. S. [L. S.]

(C.)

Warrant in the first instance.

Warrant.

Prince Edward Island, } To all or any of the constables or
County. } other peace officers in the said
County of Whereas information hath this day
been laid before the undersigned, (one) of Her Majesty's Jus-
tices of the Peace in and for the said County, for that *A. B.*
[here shortly state the matter of information.] And oath
being now made before (me), substantiating the matter of such
information: These are therefore to command you in Her
Majesty's name, forthwith to apprehend the said *A. B.*, and
to bring him before me, or some one or more of Her Majesty's
Justices of the Peace in and for the said County, to answer to
the said information, and to be further dealt with according
to law.

Given under (my) hand and seal this day of
in the year of our Lord at in the County
of aforesaid.

J. S. [L. S.]

(D.)

Warrant of commitment for safe custody during an adjournment of the hearing.

**Warrant of com-
mitment, &c.**

Prince Edward Island, } To all or any of the constables or
County. } other peace officers in the County
of and to the keeper of the common jail at
Whereas on last past, information was laid (or com-
plaint made) before (one) of Her Majesty's Justices of
the Peace in and for the said County, for that, &c., (as in the
summons.) And whereas the hearing of the same is adjourn-
ed to the day of instant, at o'clock
in the (fore) noon, at and it is necessary, that the said
A. B. should in the mean time be kept in safe custody:
These are therefore to command you, or any one of you, the
said constables or peace officers, in Her Majesty's name, forth-
with to convey the said *A. B.* to the common jail at
and there deliver him into the custody of the keeper thereof,
together with this precept; and I hereby require you, the said

keeper, to receive the said *A. B.* into your custody in the said jail, and there safely to keep him until the day of instant, when you are hereby required to convey and have him, the said *A. B.*, at the time and place to which the said hearing is so adjourned as aforesaid, before such Justices of the Peace for the said County as may then be there, to answer further to the said information (or complaint), and to be further dealt with according to law.

Given under my hand and seal this day of in the year of our Lord at in the County of aforesaid.

J. S. [L. S.]

(E.)

Recognizance for the appearance of the defendant when the case is adjourned, or not at once proceeded with.

Prince Edward Island, } Be it remembered, that on
County. } *A. B.*, of (laborer), and
L. M. of (grocer) and *O. P.* of (yeoman),
personally came and appeared before the undersigned, (one)
of Her Majesty's Justices of the Peace in and for the said
County of and severally acknowledged themselves
to owe to our Sovereign Lady the Queen, the several sums
following, that is to say: the said *A. B.* the sum of
and the said *L. M.* and *O. P.* the sums of each,
of good and lawful money of this Island, to be made and levied of their goods and chattels, lands and tenements, respectively, to the use of our said Lady the Queen, her heirs and successors, if the said *A. B.* shall fail in the condition endorsed (or hereunder written.)

Recognizance.

Taken and acknowledged the day and year first above mentioned, at before me.

J. S. [L. S.]

The condition of the within (or the above) written recognizance is such, that if the said *A. B.* shall personally appear on day of at o'clock in the (fore) noon, at before me or such Justices of the Peace for the said County as shall then be there, to answer further to the information (or complaint) of *C. D.*, exhibited against the said *A. B.*, and to be further dealt with according to law, then the said recognizance to be void, or else to stand in full force and virtue.

Condition.

Notice of such recognizance to be given to the defendant and his sureties.

Notice of re-
cognizance.

Take notice, that you *A. B.*, are bound in the sum of _____ and you *L. M.* and *O. P.* in the sum of _____ each, that you *A. B.* appear personally on _____ at _____ o'clock, at _____ before me or such Justices of the Peace for the County of _____ as shall then be there, to answer further to a certain information (or complaint) of *C. D.*, the further hearing of which was adjourned to the said time and place; and unless you appear accordingly, the recognizance entered into by you *A. B.* and by *L. M.* and *O. P.*, as your sureties, will forthwith be levied on you and them.

Dated this _____ day of _____ one thousand eight hundred and _____
J. S. [s. L.]

(F.)

Certificate of nonappearance to be endorsed on the defendant's recognizance.

Certificate of
nonappear-
ance.

I hereby certify that the said *A. B.* hath not appeared at the time and place in the said condition mentioned, but therein hath made default, by reason whereof the within written recognizance is forfeited.

(G.—1.)

Summons to a witness.

Summons to a
witness.

Prince Edward Island, } To *E. F.*, of _____ in the said
County. } County of _____ Whereas in-
formation was laid (or complaint was made) before
(one) of Her Majesty's Justices of the Peace for the said
County of _____ for that, &c. (as in the summons), and it
hath been made to appear to (me) upon (oath) that you are
likely to give material evidence on behalf of the prosecutor or
complainant or defendant in this behalf: these are therefore
to require you to be and appear on _____ at _____
o'clock in the (fore) noon, at _____ before me or such
Justices of the Peace for the said County as may then be there
to testify what you shall know concerning the matter of the
said information or complaint.

Given under my hand and seal this _____ day of _____ in
the year of our Lord _____ at _____ in the County
of _____ aforesaid.

J. S. [L. S.]

(G.—2.)

Warrant when a witness has not obeyed a summons.

Prince Edward Island, } To all or any of the constables or
County. } other peace officers in the said **Warrant.**
County of Whereas information was laid (or complaint
was made) before (one) of Her Majesty's Justices of
the Peace in and for the said County of that, &c., (as
in the summons,) and it having been made to appear to (me),
upon oath, that *E. F.*, of in the said County, (laborer),
was likely to give material evidence on behalf of the prosecu-
tor, (I) did duly issue (my) summons to the said *E. F.*, requir-
ing him to be and appear on at o'clock in the (fore) noon
of the same day, at before me or such Justice or Jus-
tices of the Peace for the said County as might then be there,
to testify what he should know concerning the said *A. B.* in
the matter of the said information or complaint; and whereas
proof has this day been made before me, upon oath, of such
summons having been duly served upon the said *E. F.*; and
whereas the said *E. F.* hath neglected to appear at the time
and place appointed by the said summons, and no just excuse
hath been offered for such neglect: these are therefore to
command you to take the said *E. F.*, and to bring and have
him on at o'clock in the noon, at
before me or such Justice or Justices of the Peace for the
said County as shall then be there, to testify what he shall
know concerning the said information or complaint.

Given under my hand and seal this day of
in the year of our Lord at in the County
of aforesaid.

J. S. [L. S.]

(G.—3.)

Warrant for a witness in the first instance.

Prince Edward Island, } To all or any of the constables or
County. } other peace officers in the said **Warrant.**
County of Whereas information was laid (or complaint
was made) before the undersigned, (one) of Her Majesty's Jus-
tices of the Peace in and for the said County of for that,
&c., (as in the summons), and it being made to appear before
me, upon oath, that *E. F.* of (laborer), is likely to
give material evidence on behalf of the prosecutor in this
matter, and it is probable that the said *E. F.* will not attend
to give evidence without being compelled so to do: these are
therefore to command you to bring and have the said *E. F.*
before me, on at o'clock, noon, or before

such other Justice or Justices of the Peace for the said County as may then be there, to testify what he shall know concerning the matter of the said information or complaint.

Given under my hand and seal this day of
in the year of our Lord at in the County
of aforesaid. J. S. [L.s.]

(G.—4.)

Commitment of a witness for refusing to be sworn or give evidence.

Commitment.

Prince Edward Island, } To all or any of the constables or
County. } other peace officers in the said
County of and to the keeper of the common jail
of the said County at Whereas information
was laid (or complaint was made) before (me, one) of Her
Majesty's Justices of the Peace in and for the said County of
for that, &c. (as in the summons,) and one *E. F.*,
now appearing before me, such Justice as aforesaid, on
at and being required by me to make oath or affirmation
as a witness in that behalf, hath now refused so to do, or being
now here duly sworn as a witness in the matter of the said
information or complaint, doth refuse to answer a certain
question concerning the premises which is now here put to
him, and more particularly the following question: (here in-
sert the exact words of the question,) without offering any
just excuse for such his refusal: these are therefore to com-
mand you, or any one of the said constables or peace officers,
to take the said *E. F.* and him safely convey to the common
jail at aforesaid, and there deliver him to the said
keeper thereof, together with this precept; and I do hereby
command you the said keeper of the said common jail to re-
ceive the said *E. F.* into your custody in the said common
jail, and there imprison him for such his contempt for the
space of days, unless he shall in the meantime consent to
be examined and to answer concerning the premises, and for
so doing this shall be your sufficient warrant.

Given under my hand and seal this day of
in the year of our Lord at in the County
of aforesaid. J. S. [L. s.]

(H.)

Warrant to remand a defendant when apprehended.

Warrant to re-
mand a defend-
ant when ap-
prehended.

Prince Edward Island, } To all or any of the constables or
County. } other peace officers in the said
County of and to the keeper of the common jail at
Whereas complaint was made (or information was

laid) before one of Her Majesty's Justices of the Peace in and for the said County of for that, &c., (as in the summons or warrant); and whereas the said *A. B.* hath been apprehended under and by virtue of a warrant upon such information or complaint, and is now brought before me as such Justice as aforesaid: these are therefore to command you, or any one of the said constables or peace officers, in Her Majesty's name, forthwith to convey the said *A. B.* to the common jail at and there deliver him to the said keeper thereof, together with this precept; and I do hereby command you, the said keeper, to receive the said *A. B.* into your custody in the said common jail, and him there safely keep until next, the day of when you are hereby required to convey and have him at at o'clock of the same day, before me or such Justice or Justices of the Peace of the same County as may then be there, to answer to the said information or complaint, and to be further dealt with according to law.

Given under my hand and seal this day of in the year of our Lord at in the County of aforesaid.

J. S. [L. S.]

(I.—1.)

Conviction for a penalty, to be levied by distress, and in default of sufficient distress, by imprisonment.

Prince Edward Island, } Be it remembered, That on the
County. } day of in the year of our Lord at in the said County of *A. B.* is convicted before the undersigned, (one) of Her Majesty's Justices of the Peace for the said County, for that he, the said *A. B.*, (stating the offence, and the time and place, when and where committed); and I adjudge the said *A. B.* for the said offence, to forfeit and pay the sum of (stating the penalty, and also the compensation if any), to be paid and applied according to law; and also to pay the said *C. D.* the sum of for his costs in this behalf, and if the said several sums be not paid forthwith, on or before the day next, I order that the same may be levied by distress of the goods and chattels of the said *A. B.*; and in default of sufficient distress, I adjudge the said *A. B.* to be imprisoned in the common jail of the said County of for the space of unless the said several sums, and all costs and charges of the said distress, and of the commitment, and conveying the said *A. B.* to jail, shall be sooner paid.

Given under my hand and seal the day and year first above mentioned at in the County of aforesaid.

J. S. [L. S.]

Conviction for penalty.

(I.—2.)

Conviction for a penalty, and, in default of payment, imprisonment.

Conviction.

Prince Edward Island, } Be it remembered, that on the
County. } day of in the year of our Lord
at in the said County of *A. B.* is convicted before the undersigned, one of Her Majesty's Justices of the Peace for the said County, for that he the said *A. B.*, (stating the offence, and the time and place when and where it was committed); and I adjudge the said *A. B.* for his said offence, to forfeit and pay the sum of (stating the penalty, and the compensation if any), to be paid and applied according to law, and also to pay to the said *C. D.* the sum of for the costs in this behalf; and if the said several sums be not paid forthwith, on or before next, I adjudge the said *A. B.* to be imprisoned in the common jail of the said County, at for the space of unless the said sums, and costs and charges of conveying the said *A. B.* to the said common jail, shall be sooner paid.

Given under (my) hand and seal the day and year first above mentioned at in the County of aforesaid.
J. S. [L. s.]

(I.—3.)

Conviction when the punishment is by imprisonment, &c.

Conviction.

Prince Edward Island, } Be it remembered, that on the
County. } day of in the year of our
Lord in the said County of *A. B.*, is convicted before the undersigned, (one) of Her Majesty's Justices of the Peace, in and for the said County of for that he the said *A. B.*, (stating the offence, and the time and place when and where it was committed); and I adjudge the said *A. B.* for his offence to be committed to prison in the common jail at for the space of and I also adjudge the said *A. B.* to pay to the said *C. D.* the sum of for his costs in this behalf; and if the said sum for costs be not paid forthwith, on or before the day of next, then I order that the said sum be levied by distress and sale of the goods and chattels of the said *A. B.*, and in default of sufficient distress in that behalf, I adjudge the said *A. B.* to be imprisoned in the said common jail for the space of to commence at and from the time of his imprisonment aforesaid, unless the said sum for costs shall be sooner paid, (or when the issuing of a distress warrant would be ruinous to the defendant or his family, or it appears that he has no goods whereon

to levy a distress, then say) ; inasmuch as it hath been made to appear to me, that the issuing of a warrant of distress in this behalf would be ruinous to the said *A. B.* and his family, or that the said *A. B.* hath no goods or chattels whereon to levy the said sum for costs by distress, I adjudge, &c.

Given under my hand and seal this day of in
the year of our Lord at in the County
of aforesaid.

J. S. [L. s.]

(K.—1.)

Order for payment of money to be levied by distress, and in default of distress, imprisonment.

Prince Edward Island, } Be it remembered, That on the
County. } day of complaint was made *Order for pay-*
before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the County of for that, &c., (stating the *ment of money.*
facts entitling the complainant to the order, and the time and place when and where they occurred,) and now at this day, to wit: on the day of at the parties aforesaid appear before me the said Justice, (or the said *C. D.* appears before me the said Justice; but the said *A. B.*, although duly called, doth not appear by himself, his representative or agent, and it is now satisfactorily proved to me on oath, that the said *A. B.* has been duly served with the summons in this behalf, which required him to be and appear here on this day before me, or such other Justice or Justices of the Peace as should now be here to answer the said complaint, and to be further dealt with according to law :) and now having heard the matter of the said complaint, I do adjudge the said *A. B.* to pay to the said *C. D.* the said sum of forthwith, or on or before the day of next, (or as the statute may require,) and also to pay to the said *C. D.* the sum of for his costs in this behalf; and if the said several sums be not paid forthwith (on or before next,) then I hereby order, that the same be levied by distress and sale of goods and chattels of the said *A. B.*, (and in default of sufficient distress in that behalf,) I adjudge the said *A. B.* to be imprisoned in the common jail of the said County for the space of unless the said several sums, and all costs and charges of the said distress, and of the commitment and conveying the said *A. B.* to the said common jail be sooner paid, (or when the issuing of the distress warrant would be ruinous to the said *A. B.*, say) ; inasmuch as the issuing a distress warrant would be ruinous to the said *A. B.* and his family, or that the said *A. B.* hath no goods whereon to levy

the said sums by distress, I adjudge the said *A. B.*, to be imprisoned, &c.

Given under my hand and seal this day of
in the year of our Lord at in the County
of aforesaid.

J. S. [L. S.]

(K—2.)

Order for payment of money, and in default of payment, imprisonment.

Order for pay-
ment of money.

Prince Edward Island, } Be it remembered, that on
County. } complaint was made before the un-
dersigned, (one) of Her Majesty's Justices of the Peace for
the said County of for that, &c., (stating the facts en-
titled the complainant to the order with the time and place
when and where they occurred), and now at this day, to wit:
on at the parties aforesaid appear before me
the said Justice, or the said *C. D.* appears before me the said
Justice; but the said *A. B.*, although duly called, doth not
appear by himself, his representative or agent, and it is now
satisfactorily proved to me on oath, that the said *A. B.* has
been duly served with the summons in this behalf, requiring
him to be and appear here on this day, before me, or such
Justices of the Peace for the said County as should now be
here, to answer the said complaint, and to be further dealt
with according to law: and now having heard the matter of
the said complaint, I adjudge the said *A. B.* to pay to the
said *C. D.* the sum of forthwith, on or before
next, or (as the statute may require), and also to pay to the
said *C. D.* the sum of for his costs in this behalf; and
if the said several sums be not paid forthwith, or on or before
next, then I adjudge the said *A. B.* to be imprisoned
in the common jail of the said County, at for the
space of unless the said several sums, and costs, and
charges of conveying and committing the said *A. B.* to jail,
shall be sooner paid.

Given under (my) hand and seal this day of
at in the County of aforesaid.

J. S. [L. S.]

(K—3.)

Order for any other matter, where the disobeying of it is punishable with imprisonment.

Order for any
other matter

Prince Edward Island, } Be it remembered, that on
County. } complaint was made before me the

undersigned, (one) of Her Majesty's Justices of the Peace in and for the said County of _____ for that, &c., (stating the facts entitling the complainant to the order with the time and place when and where they occurred,) and now at this day, to wit: on _____ at _____ the parties aforesaid appear before me the said Justice, (or the said *C. D.* appears before me the said Justice); but the said *A. B.*, although duly called, doth not appear by himself, his representative or agent, and it is now satisfactorily proved to me upon oath, that the said *A. B.* has been duly served with the summons in this behalf, which required him to be and appear here this day before me, or such Justice or Justices of the Peace for the said County as should now be here, to answer to the said complaint, and to be further dealt with according to law: and now having heard the matter of the said complaint, I do therefore adjudge the said *A. B.* to (here state the matter required to be done), and if, upon a copy of the minutes of this order being served upon the said *A. B.*, either personally or by leaving the same at his last or most usual place of abode, he shall neglect or refuse to obey the same, in that case I adjudge the said *A. B.* for such his disobedience, to be imprisoned in the common jail of the County of _____ for the space of _____ unless the said order be sooner paid; and I do also adjudge the said *A. B.* to pay to the said *C. D.* the sum of _____ for his costs in this behalf; and if the said costs be not paid forthwith, on or before _____ the _____ day of _____ next, I order the same to be levied by distress and sale of the goods and chattels of the said *A. B.*, and in default of sufficient distress, I adjudge the said *A. B.* to be imprisoned in the said common jail for the space of _____ to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs shall be sooner paid.

where the disobeying of it is punishable with imprisonment.

Given under my hand and seal this _____ day of _____ at _____ in the County of _____ aforesaid.

J. S. [L. s.]

(L.)

Order of dismissal of an information or complaint.

Prince Edward Island, } Be it remembered, that on the _____ County, } information was laid (or complaint was made) before the undersigned, (one of Her Majesty's Justices of the Peace in and for the said County of _____ for that, &c., (as in the summons to the defendant), and now at this day, to wit: on _____ at _____ both the said parties appear before me, in order that I should hear and determine the said information (or complaint), or the said *A. B.* appear-eth before me; but the said *C. D.*, although duly called, doth

Order of dismissal of an information or complaint.

not appear, whereupon the matter of the said information (or complaint) being by me duly considered, it manifestly appears to me, that the said information (or complaint) is not proved, and I do therefore dismiss the same; and I do adjudge that the said *C. D.* do pay to the said *A. B.* the sum of for his costs incurred by him in his defence in this behalf; and if the said sum or costs be not paid forthwith, on or before

I order that the same be levied by distress and sale of the goods and chattels of the said *C. D.*; and in default of sufficient distress in that behalf, I adjudge the said *C. D.* to be imprisoned in the common jail in the said County of for the space of unless the said sum for costs, and all costs and charges of the said distress, and of the commitment of the said *C. D.* to the said common jail, shall be sooner paid.

Given under my hand and seal this day of
in the year of our Lord at in the County
of aforesaid. *J. S.* [L.S.]

(M.)

Certificate of dismissal.

**Certificate of
dismissal.**

I hereby certify that an information (or complaint), preferred by *C. D.* against *A. B.*, for that (or as in the summons), was this day considered by me, one of Her Majesty's Justices of the Peace in and for the County of and was by me dismissed, (with costs.)

Dated this day of one thousand eight
hundred and
J. S. [L. S.]

(N.—1.)

Warrant of distress upon a conviction for a penalty.

**Warrant of
distress.**

Prince Edward Island, } To all or any of the constables or
County. } other peace officers in the said
county of Whereas *A. B.*, late of (laborer,) was on this day (or on last past,) duly convicted before one of Her Majesty's Justices of the Peace in and for the said County of for that, (stating the offence as in the summons,) and it was thereby adjudged that the said *A. B.* should for such his offence forfeit and pay, &c., (as in the conviction), and should also pay to the said *C. D.* the sum of for his costs in that behalf, and it was thereby ordered, that if the said several sums should not be paid forthwith, the same should be levied by distress and sale

of the goods and chattels of the said *A. B.*; and it was thereby adjudged that the said *A. B.*, in default of sufficient distress, should be imprisoned in the common jail of the said County of _____ and there to be kept at hard labor for the space of _____

unless the said several sums, and all costs and charges of the said distress, and of the commitment and conveying of the said *A. B.* to the said common jail, should be sooner paid: and whereas the said *A. B.*, being so convicted as aforesaid, and being now required to pay the said sums of _____ and _____

hath not paid the same or any part thereof, but therein hath made default: these are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said *A. B.*; and if within _____ days next after the making of such distress, the said sums, together with the reasonable charges of taking and keeping the distress, shall not be paid, then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale unto me, (the convicting Justice or one of the convicting Justices), that I may pay and apply the same as by law is directed, and may render the overplus, if any, on demand to the said *A. B.*; and if no such distress can be found, then that you certify the same unto me, to the end that such further proceedings may be had thereon as to law doth appertain.

Given under (my) hand and seal this _____ day of _____
in the year of our Lord _____ at _____ in the County
of _____ aforesaid.

J. S. [L. s.]

(N.—2.)

Warrant of distress upon an order for the payment of money.

Prince Edward Island, } To all or any of the constables or
County. } other peace officers in the said Warrant of
distress.
County of _____ Whereas on _____ last past, a complaint
was made before _____ (one) of Her Majesty's Justices of
the Peace in and for the said County of _____ for that, &c.,
(as in the order), and afterwards, to wit: on _____ at _____
the said parties appeared before _____ (as in the
order), and thereupon having considered the matter of the
said complaint, the said *A. B.* was adjudged to pay to the said
C. D. the sum of _____ on or before _____ then next, and
also to pay to the said *C. D.* the sum of _____ for his costs
in that behalf; and it was ordered, that if the said several
sums should not be paid on or before the said _____ then
next, the same should be levied by distress and sale of the
goods and chattels of the said *A. B.*, and it was adjudged that
in default of sufficient distress in that behalf, the said *A. B.*

should be imprisoned in the common jail of the said County of _____ for the space of _____ unless the said several sums, and all costs and charges of the distress, and of the commitment and conveying the said *A. B.* to the said common jail, should be sooner paid : and whereas the time in and by the said order appointed for the payment of the said several sums of _____ and _____ hath elapsed ; but the said *A. B.* hath not paid the same or any part thereof, but therein hath made default : these are therefore to command you, in Her Majesty's name forthwith, to make distress of the goods and chattels of the said *A. B.*, and if within the space of _____ days after the making of such distress, the said last mentioned sums, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale unto me, (or some other of the convicting Justices, as the case may be), that I (or he) may pay and apply the same as by law directed, and may render the overplus, if any, on demand to the said *A. B.* ; and if no such distress can be found, then that you certify the same unto me, to the end that such proceedings may be had therein, as to law doth appertain.

Given under my hand and seal this _____ day of _____
in the year of our Lord _____ at _____ in the County
of _____ aforesaid. *J. S.* [L. s.]

(N.—3.)

Endorsement in backing a warrant of distress.

Endorsement
on warrant of
distress.

Prince Edward Island, } Whereas proof upon oath hath this
County. } day been made before me, one of Her
Majesty's Justices of the Peace in and for the said County of
that the name of *J. S.*, to the within warrant subscribed, is of the handwriting of the Justice of the Peace within mentioned ; I do therefore authorize *U. T.*, who bringeth me this warrant, and all other persons to whom this warrant was originally directed, or by whom the same may be lawfully executed, and also all constables and other peace officers in the said County of _____ to execute the same within the said County of _____

Given under my hand and seal this _____ day of _____
one thousand eight hundred and _____ *O. K.*

(N.—4.)

Constable's return to a warrant of distress.

Constable's re-
turn to warrant
of distress.

I, *W. T.*, constable, of _____ in the County of _____
hereby certify to *J. S.*, Esquire, one of Her Majesty's Justices

of the Peace for the County of _____ that by virtue of
 this warrant, I have made diligent search for the goods
 and chattels of the within mentioned *A. B.*, and that I can
 find no sufficient goods or chattels of the said *A. B.* whereon
 to levy the sums within mentioned.

Witness my hand this _____ day of
 one thousand eight hundred and _____

W. T.

(N.—5.)

Warrant of commitment for want of distress.

To all or any of the constables and other peace officers in
 the County of _____ and to the keeper of the common jail of
 the said County of _____ at _____ Warrant of
commitment.

Whereas, (&c., as in either of the foregoing distress war-
 rants, N-1-2, and then thus:) And whereas afterwards on
 the _____ day of _____ in the year aforesaid, I, the said
 Justice, issued a warrant to all or any of the constables or
 other peace officers of the County of _____ commanding
 them, or any of them, to levy the said sums of _____ and
 by distress and sale of the goods and chattels of the said *A.*
B.; and whereas it appears to me, as well by the return to the
 said warrant of distress by the constable who had the execu-
 tion of the same, as otherwise, that the said constable hath
 made diligent search for the goods and chattels of the said
A. B., but that no sufficient distress whereon to levy the sums
 above mentioned could be found: These are therefore to
 command you, the said constables or peace officers, or any
 one of you, to take the said *A. B.*, and him safely to convey
 to the common jail at _____ aforesaid, and there deliver
 him to the said keeper, together with this precept; and I do
 hereby command you, the said keeper of the said common
 jail, to receive the said *A. B.* into your custody in the said
 common jail, and there to imprison him for the space of _____
 unless the said several sums, and all costs and
 charges of the said distress, and of the commitment and con-
 veying of the said *A. B.* to the said common jail, amounting
 to the further sum of _____ shall be sooner paid unto
 you the said keeper, and for so doing, this shall be your suffi-
 cient warrant.

Given under my hand and seal this _____ day
 of _____ in the year of our Lord _____ at _____ in
 the county of _____

J. S. [L. S.]

(O.—1.)

*Warrant of commitment upon a conviction for a penalty in the first instance.*Warrant of
commitment
on conviction.

Prince Edward Island, } To all or any of the constables and
County. } other peace officers in the said
County of Whereas *A. B.*, late of (laborer)
was this day convicted before the undersigned, (one) of Her
Majesty's Justices of the Peace in and for the said County of
for that, (stating the offence as in the conviction),
and it was thereby adjudged that the said *A. B.* for his offence
should forfeit and pay the sum of, &c., (as in the conviction),
and should pay to the said *C. D.* the sum of for
his costs in that behalf; and it was thereby further adjudged
that if the said several sums should not be paid (forthwith)
the said *A. B.* should be imprisoned in the common jail of
the said County of at in the said County of
for the space of unless the said several sums
(and the costs and charges of conveying the said *A. B.* to the
said common jail), should be sooner paid; and whereas the
time in and by the said conviction appointed for the payment
of the said several sums hath elapsed, but the said *A. B.* hath
not paid the same or any part thereof, but therein hath made
default: These are therefore to command you, the said con-
stables or peace officers, or any one of you, to take the said
A. B., and him safely to convey to the common jail at
aforesaid, and there to deliver him to the keeper thereof, toge-
ther with this precept; and I do hereby command you, the
said keeper of the said common jail, to receive the said *A. B.*
into your custody in the said common jail, there to imprison
him for the space of unless the said several sums, and
costs and charges of carrying him to the said common jail,
amounting to the further sum of shall sooner be paid,
and for your so doing this shall be your sufficient warrant.

Given under my hand and seal this day of
in the year of our Lord at in the County
of aforesaid. *J. S.* [L. s.]

(O—2.)

*Warrant of commitment on an order in the first instance.*Warrant of
commitment.

Prince Edward Island, } To all or any of the constables and
County. } other peace officers in the said
County of and to the keeper of the common jail of
the County of at Whereas on last past,
complaint was made before the undersigned (one) of Her Majes-
ty's Justices of the Peace in and for the County of

for that, &c., (as in the order) and afterwards, to wit: on the
 day of at the parties appeared
 before me, the said Justice, or (as it may be in the order,) and thereupon having considered the matter of the said complaint, I adjudge the said *A. B.* to pay to the said *C. D.* the sum of on or before the day of
 then next, and also to pay to the said *C. D.* the sum of for his costs in that behalf; and I also hereby adjudge that if the said several sums should not be paid on or before the day of then next, the said *A. B.* should be imprisoned in the common jail of the County of at in the said County of for the space of unless the said several sums, (and the costs and charges of conveying the said *A. B.* to the common jail, as the case may be) should be sooner paid; and whereas the time in and by the said order appointed for the payment of the said several sums of money hath elapsed, but the said *A. B.* hath not paid the same or any part thereof, but therein hath made default: These are therefore to command you, the said constables and peace officers, or any one of you, to take the said *A. B.*, and him safely to convey to the said common jail at aforesaid, and there to deliver him to the keeper thereof, together with this precept; and I do hereby command you, the said keeper of the said jail, to receive the said *A. B.* into your custody in the said common jail, there to imprison him for the space of unless the said several sums and the costs and charges of conveying him to the said common jail, amounting to the further sum of shall be sooner paid unto you the said keeper, and for your so doing this shall be your sufficient warrant.

Given under my hand and seal this day of
 in the year of our Lord at in the County
 of aforesaid.

J. S. [L. S.]

(Q—1.)

Warrant of distress for costs upon an order for dismissal of an information or complaint.

Prince Edward Island, } To all or any of the constables or
 County. } other peace officers in the said
 County of Whereas on last past, information was laid (or complaint was made,) before (one) of Her Majesty's Justices of the Peace in and for the said County of for that, &c., (as in the order of dismissal,) and afterwards, to wit: on at both parties appearing before in order that (I) should hear and determine the same, and the several proofs adduced to (me)

Warrant of distress for costs.

in that behalf, being by (me) duly heard and considered, and it manifestly appearing to (me) that the said information (or complaint) was not proved, (I) therefore dismissed the same, and adjudged, that the said *C. D.* should pay to the said *A. B.* the sum of _____ for his costs incurred by him in his defence in that behalf, and I ordered, that if the said sum for costs should not be paid (forthwith), the same should be levied on the goods and chattels of the said *C. D.*, and (I) adjudge that in default of sufficient distress in that behalf, the said *C. D.* should be imprisoned in the common jail of the said County of _____ for the space of _____ unless the said sum for costs, and all costs and charges of the said distress, and of the commitment and conveying of the said *A. B.* to the common jail, should be sooner paid; and whereas the said *C. D.* being now required to pay to the said *A. B.* the said sum for costs, hath not paid the same or any part thereof, but therein hath made default: these are therefore to command you, in Her Majesty's name forthwith, to make distress of the goods and chattels of the said *C. D.*, and if within the space of _____ days next after the making of such distress, the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, then that you do sell the said goods and chattels so by you distressed, and do pay the money arising from such sale to (me), (the Justice who made such order or dismissal, as the case may be), that (I) may pay and apply the same as by law directed, and may render the overplus, (if any), on demand to the said *C. D.*; and if no such distress can be found, then that you certify the same unto (me), or to any other Justice of the Peace for the said County of _____ to the end that such proceedings may be had therein as to law doth appertain.

Given under my hand and seal this _____ day of _____
in the year of our Lord _____ at _____ in the County
of _____ aforesaid. J. S. [L. S.]

(Q.—2.)

Warrant of commitment for want of distress in the last case.

Warrant of
distress.

Prince Edward Island, } To all or any of the constables or
County. } peace officers in the said County
of _____ and to the keeper of the common jail of
the said County of _____ at _____ Whereas, &c., (as in the
last form, and then thus): and whereas afterwards, on the
day of _____ in the year aforesaid, I, the said Justice, issued
a warrant to all or any of the constables or other peace officers
of the said County of _____ commanding them, or any one
of them, to levy the said sum of _____ for costs, by distress
and sale of the goods and chattels of the said *C. D.*; and

whereas it appears to me as well by the return to the said warrant of distress of the constable (or peace officer), charged with the execution of the same as otherwise, that the said constable hath made diligent search for the goods and chattels of the said *C. D.*, but that no sufficient distress whereon to levy the same above mentioned could be found: these are therefore to command you, the said constables and peace officers, or any one of you, to take the said *C. D.*, and him safely convey to the common jail of the said County of aforesaid, and there deliver him to the keeper, together with this precept; and I hereby command you, the said keeper of the said common jail, to receive the said *C. D.* into your custody in the said common jail, there to imprison him for the space of unless the said sum, and all the costs and charges of the said distress, and of the commitment and conveying of the said *C. D.* to the said common jail, amounting to the further sum of shall be sooner paid unto you, the said keeper, and for your so doing, this shall be your sufficient warrant.

Given under my hand and seal this day of
in the year of our Lord at in the County
of aforesaid.

J. S. [L. s.]

(R.)

General form of information on oath.

Prince Edward Island, } The information (or complaint of
County. } *C. D.*, of the township of General form
in the said County of (laborer,) (if preferred by his of information
representative or agent, say by) *D. E.*, his duly authorized on oath.
agent or representative in this behalf, taken upon oath before
me, the undersigned, one of Her Majesty's Justices of the
Peace in and for the said County of at *N.*, in the
said County of this day of in the
year of our Lord one thousand eight hundred and
who saith that he hath just cause to suspect and believe, and
doth suspect and believe, that *A. B.*, of in the
said County of within the space of (the time within
which the information or complaint must be laid), last past,
to wit: on the day of instant, at in the
County of aforesaid, did, (here set out the offence,) and
contrary to the form of the statute in such case made and
provided.

C. D. or *D. E.*

Taken and sworn before me the day and year and at the
place above mentioned. *J. S.*

(S.)

*Recognizance of appeal.*Recognizance
of appeal.

Prince Edward Island, } *C. D.*, plaintiff,
County. } and
 } *A. B.*, defendant.

C. D. is delivered to bail to prosecute his appeal at the sitting of Her Majesty's Supreme Court of Judicature, to be holden at on the day of next ensuing.

To *E. F.*, of in (occupation,) and
G. H. of in (occupation.)

Taken and acknowledged before me,
J. P., or Mayor, or Council-
man, or Clerk.

(S.—2.)

*Form of affidavit of appellant or his agent.*Affidavit of
appellant or
agent.

Prince Edward Island, } In the Police Court of the City of
County. } Charlottetown, or before
Justice or Justices of the Peace for the County of
C. D., or *E. F.*, agent of *C. D.*, maketh oath and saith, that
on the day of instant (or last) judgment was
given against this deponent or the said *C. D.*, or for this de-
ponent or the said *C. D.*, if the judgment appealed from be
in favor of the appellant by the said Justice or Jus-
tices of the Peace for the said County of or by the
said Police Court, in an action or complaint wherein *A. B.* was
plaintiff or defendant; and this deponent or the said *C. D.*,
plaintiff or defendant, for the sum of together with
costs of suit, (or for costs of nonsuit or otherwise, as the case
may be;) and that this deponent, considering himself, or the
said *C. D.* considering himself, if by the agent, aggrieved by
the said judgment, intends to remove the same by appeal into
Her Majesty's Supreme Court of Judicature, at the sitting
thereof, to be holden at on the day of
next ensuing; and then and there to cause the said judgment
and all proceedings thereon to be examined in due course of
law; and this deponent further saith that he does not ask for
the said appeal for the purpose of delaying the payment of
the said judgment, but for the purpose of having the case
determined on its merits in the Supreme Court as aforesaid.

Sworn before me this day of 18
J. P., or Mayor, or Council-
lor, or Clerk.

C. D., or *E. F.*, agent for *C. D.*

(S.—3.)

Condition of recognizance on appeal to be read over to, or repeated by sureties, and to be endorsed on or annexed to recognizance, signed by the sureties, and attested by the Justice or Justices, Mayor, Councilman or Clerk.

We, *E. F.* and *G. H.*, do jointly and severally undertake, that if *C. D.*, the appellant, be condemned in the appeal, and judgment be given against him by the Supreme Court, or entered against him by confession, he shall satisfy the costs and condemnation, or render himself to the custody of the Sheriff of the County, to whom any execution thereon may be issued, or we will do it for him; and further, that if the said *C. D.* shall in the meantime fraudulently part with any of his goods and chattels, and make any undue or unjust disposition thereof, so as to defeat any such judgment and execution, unless he shall pay the costs and condemnation money, we will pay the same for him. This we do severally acknowledge and undertake.

Condition of
recognizance
of appeal.

Dated day of A. D. 18

E. F.
G. H.

Taken and acknowledged before me,
J. P., or Mayor, or Council-
man, or Clerk.

(S.—4.)

Notice of appeal.

Prince Edward Island, } A. B., plaintiff,
County. } and
 } C. D., defendant.

In the Police Court of the city of Charlottetown, or before
Justice or Justices of the Peace for the County of

Notice of
appeal.

Take notice, that I have appealed from the judgment of this Court (or of the said Justice or Justices) in this suit, to Her Majesty's Supreme Court of Judicature, at the next sitting thereof, at on the day of and that it is my intention to have said appeal heard on that day, or as soon thereafter as counsel can be heard.

Given under my hand this day of
18 C. D. or A. B.

To A. B. or C. D.

Form of order of dismissal of an information or complaint.

Prince Edward Island, } Be it remembered, that on infor-
County. } mation was laid (or complaint was Order of dis-
made) before the undersigned, one of Her Majesty's Justices missal.
of the Peace in and for the said County of for that,

(&c., as in the summons to the defendant), and now at this day, to wit: on at (or if at an adjournment, say, to which day the hearing of this case hath been duly adjourned, of which the said C. D. hath due notice,) both the said parties appear before me, in order that I should hear and determine the said information (or complaint), or the said A. B. appeareth before me, but the said C. D., although duly called, doth not appear, whereupon the matter of the said information (or complaint) being by me duly considered, it manifestly appears to me, that the said information (or complaint) is not proved, and I do therefore dismiss the same, and do adjudge that the said C. D. do pay to the said A. B. the sum of for his costs, incurred by him in his defence in this behalf; and if the said sum for costs be not paid forthwith, (or on or before) I order that the same may be levied by distress and sale of the goods and chattels of the said C. D.; and in default of sufficient distress in that behalf, I adjudge the said C. D. to be imprisoned in the common jail of the said County for the space of unless the said sum for costs, and all costs and charges of the said distress, and of the commitment and conveying of the said C. D. to the said common jail, shall be sooner paid.

Given under my hand and seal this day of in the year of our Lord one thousand eight hundred and at in the County aforesaid.
J. S. [L. S.]

Form of certificate of dismissal.

Certificate of dismissal.

I hereby certify that an information (or complaint), preferred by C. D. against A. B., for that, &c., (as in the summons,) was this day considered by me, one of Her Majesty's Justices of the Peace in and for the County of and was by me dismissed, (with costs.)

Dated this day of one thousand eight hundred and J. S.

SURETIES.

Complaint, by the party threatened, for sureties for the peace.

Complaint, by party threatened, for sureties for the peace.

[Proceed as in the form (R) to the words, "who saith,"] that did on the day of instant (or last past, as the case may be,) threaten the said C. D. in the words or to the effect following, that is to say: (set them out, with the circumstances under which they were used,) and that, from the above and other threats used by the said A. B. towards the said C. D., he, the said C. D., is afraid that the

said A. B. will do him some bodily injury, and therefore prays that the said A. B. may be required to find sufficient sureties to keep the peace and be of good behavior towards him, the said C. D.; and the said C. D. also saith, that he does not make this complaint against, nor require such sureties from the said A. B., from any malice or ill will, but merely for the preservation of his person from injury.

Form of recognizance to keep the peace.

Be it remembered, that on the day of in the year of our Lord one thousand eight hundred and A. B. of (laborer,) L. M. of (grocer,) and N. O. of (butcher,) personally came before me, the undersigned, one of Her Majesty's Justices of the Peace for the said County of and severally acknowledged themselves to owe to our Lady the Queen the several sums following, that is to say: the said A. B. the sum of and the said L. M. and N. O. the sum of each, of good and lawful money of the said Island, to be made and levied of their goods and chattels, lands and tenements, respectively, to the use of our said Lady the Queen, her heirs and successors, if he, the said A. B., fail in the condition endorsed.

Form of recognizance to keep the peace.

Taken and acknowledged the day and year first above mentioned, at before me.

J. S.

Condition.

The condition of the within (or above) written obligation is such, that if the within (or above) bounden A. B. of &c., shall keep the peace and be of good behavior towards Her Majesty, and all her liege people, and especially towards C. D. of for the term of now next ensuing, then the said recognizance to be void or else to stand in full force and virtue.

Condition.

Form of commitment in default of sureties to keep the peace.

Prince Edward Island, } To any of the constables of the
County. } County of or other peace
officers, and to the keeper of the common jail at

Commitment in default of sureties for the peace.

Whereas on the day of instant, complaint on oath was made before the undersigned, (or J. L., Esquire,) one of Her Majesty's Justices of the Peace in and for the County of by C. D., of in the said County, (laborer), that A. B., of &c., on the day of at in the County aforesaid, did threaten, (&c.,

follow to the end of complaint, as in form above, in the past tense, then :) and whereas the said A. B. was this day brought and appeared before the said Justice (or *J. L.*, Esquire,) one of Her Majesty's Justices of the Peace for the County of to answer unto the said complaint ; and having been required by me to enter into his own recognizance in the sum of with two sufficient sureties in the sum of each to keep the peace and be of good behaviour towards Her Majesty and all her liege people, and especially towards the said C. D., for the term of hath refused and neglected, and still refuses and neglects to find such sureties : these are therefore to command you, the said constables or peace officers, or any one of you, to take the said A. B., and him safely convey to the common jail at aforesaid, and there deliver him to the keeper thereof, with this precept ; and I do hereby command you, the said keeper of the said jail, to receive the said A. B. into your custody, there to imprison him, until he find sufficient sureties to keep the peace as aforesaid.

Given under my hand and seal this day of
in the year of our Lord at in the County
of aforesaid.

J. S. [L. s.]

Form of oath to be taken by bail on justification.

Oath of bail on
justification.

You A. B. (or A. B. and C. D., as the case may be,) do solemnly swear (or affirm) that you are worth the sum of (the amount named in the recognizance,) over and above all your just debts.

SCALE OF FEES REFERRED TO BY THIS ACT.

JUSTICES' FEES :

Fees of Justice of the Peace.	Information or complaint,	£0 2 0
	Summons to defendant upon an information or complaint,	0 1 6
	Warrant when the summons is disobeyed,	0 2 0
	Warrant in the first instance,	0 2 0
	Warrant of committal for safe custody during an adjournment of the hearing,	0 2 0
	Recognizance for appearance,	0 2 0
	Notice of such recognizance to be given to defendant and his sureties,	0 1 0
	Certificate of nonappearance to be endorsed on recognizance,	0 1 0
	Summons to a witness,	0 1 6
	Warrant when witness has not obeyed summons,	0 2 0

Warrant for a witness in the first instance,	0	2	0
Commitment of a witness for refusing to be sworn,	0	2	6
Warrant to remand,	0	2	0
Conviction for a penalty, &c.	0	3	0
Order for payment of money to be levied by distress,	0	3	0
Order for any other matter, &c.,	0	2	0
Certificate of dismissal,	0	2	0
Warrant of distress on conviction,	0	2	0
Endorsement on warrant of distress,	0	1	6
Recognizance to keep the peace,	0	3	0
Recognizance of appeal,	0	2	0
Notice of appeal,	0	1	6
Affidavit to obtain appeal,	0	1	6

WITNESSES' FEES :

Every day's attendance, per diem, currency,	0	2	0
Every mile travelled,	0	0	3

In the event of witnesses attending in more than one case at the same time, then only one half the above fees in each case.


CONSTABLES' FEES :

Service of summons,	0	1	0
Execution of warrant,	0	2	6
For every mile travelled to serve summons, warrant or other process, each way,	0	0	2

CAP. XXIV.

An Act in further amendment of the Act to incorporate the minister and trustees of Saint James's Church in the town of Charlottetown. 2 W. 4, c. 17.

[Passed April 15, 1857.]

 This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to Act 24 Vic., c. 3.

CAP. XXV.

An Act for appropriating certain moneys therein mentioned, Executed.
for the service of the year of our Lord one thousand eight hundred and fifty-six.

[Passed April 14th, 1856.]

ANNO VICESIMO

VICTORIÆ REGINÆ.

At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the twenty-sixth day of February, *Anno Domini* 1857, in the twentieth year of the reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, Queen, Defender of the Faith:

1857.

Sir D. DALY,
Lt. Governor.

CHAS. YOUNG,
President of
L. Council.

Being the third session of the twentieth General Assembly convened in the said Island.

R. THORNTON,
Speaker of H.
of Assembly.

CAP. I.

An Act for raising a revenue.

Expired.

[Passed April 15th, 1857.]

CAP. II.

An Act for raising moneys to be applied to the purchase of lands, under the Act^s sixteenth Victoria, chapter eighteen, intituled "An Act for the purchase of lands on behalf of the Government of Prince Edward Island, and to regulate the sale and management thereof, and for other purposes therein mentioned."

16 Vic. c. 12.

[Passed April 15, 1857.]

* * * This Act was disallowed by Her Majesty. See order in Council dated 3d December, 1858, and published in the *Royal Gazette* newspaper of this Island on the 25th February, 1859.

CAP. III.

An Act to amend the practice of the Supreme Court, and to alter the time for the attendance of petit Jurors in Queen's County, and for other purposes therein mentioned.

See 12 Vic. c. 9.

[Passed April 15th, 1857.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:

Petit jury for Hilary and Trinity terms in Queen's County to be summoned for the 2d day thereof.

I. After the passing of this Act, the petit jury in Queen's County shall be summoned to attend on the second day of Hilary and Trinity terms, respectively, instead of the first day thereof, as heretofore required; and the *venue*, delivered to the Sheriff, shall accordingly be returnable on Wednesday, the second day of term, instead of Tuesday, the first day thereof.

Second and nine following days of term to be devoted to trial of jury cases, &c.

II. Wednesday, the second day, and the nine days immediately following of Hilary and Trinity terms, respectively, for Queen's County, or so much thereof as shall be required, shall be devoted exclusively to the trial of jury causes, motions, grand jury and ordinary business, independent of the trial of appeals and summary suits; but no summary causes (except those wherein a jury may be required) or appeals shall be called on or tried, until after the expiration of the eleventh day from the commencement of the term; provided always, that should the said days so set apart for jury causes, at any term, prove insufficient, the Court is hereby empowered to extend the number of jury days, and require the attendance of the jurors thereon, so as to complete the trial of the jury causes: such extension, however, not to exceed three days.

Party in a summary suit requiring a jury, to give notice to opposite party.

III. Where either party, in a summary suit, intends to move for a jury for the trial thereof, he shall be bound and required to serve on the opposite party, or his attorney, notice of his intention so to do, at least three clear days before the commencement of the term, so as to enable the opposite party to be in attendance, with his witnesses.

Summary cases and appeals to be heard after expiration of 11th day.

IV. After the expiration of the eleventh day from the commencement of any of the said terms, and not before, the summary causes and appeals shall be tried in such order and manner as the Court shall, in its pleasure, direct, under the authority possessed by them in such cases, and the provisions of the statute twelfth Victoria, chapter nine, relating to the terms of the Supreme Court.

Cases to be docketed on first day of term.

V. All causes to be tried shall be docketed at or before three o'clock in the afternoon of Tuesday, the first day of the said terms, unless the Court shall see fit, on cause shewn, to allow any cause to be subsequently docketed.

VI. The Supreme Court is hereby empowered to set down causes, wherein a special jury shall be moved for, and to order the special jurors therein to be summoned for any day in full term, even after the petit jury days have expired.

Special jury cases.

VII. A warrant of attorney, to confess judgment in the Supreme Court, or *cognovit* given in any action therein, or any other security, executed by a prisoner in jail in this Island, to the party at whose suit he is confined or imprisoned, (whether confined or imprisoned under the process or execution of the Supreme Court, or the Mayor's Court for the City of Charlottetown, or any Court of Commissioners for the recovery of small debts in this Island,) shall be good and valid, without the presence of an Attorney being required, on behalf of the said prisoner; provided the execution thereof be witnessed by the deputy Prothonotary of the County, as the case may be; or, (if the prisoner be confined under the process of execution of the Mayor's Court, or any Court of Commissioners for the recovery of small debts, as aforesaid,) before the clerk of any such Court, who shall read over the same to the party in jail, executing the same, previous to execution; and the fact of its having been so read over shall be set forth and stated at the end or foot of the warrant of attorney, *cognovit*, or other security, in the form following, or to the same effect:—

Warrant of attorney, &c., executed by prisoner, to be good if witnessed by deputy Prothonotary, &c.

“Signed, sealed and delivered, (where the instrument is under seal,) having been first read over to the said *A. B.*, a prisoner in jail, at the suit of *C. D.*, before me,

Form of attestation, &c.

E. F.,

Deputy Prothonotary of the Supreme Court for County, or *G. H.*, Clerk of the Mayor's Court for the City of Charlottetown, or of the Commissioners' Court for ,
(as the case may be.)”

And the deputy Prothonotary or the Clerk of the Mayor's or Commissioners' Court, (as the case may be,) shall be entitled to demand and receive from any prisoner executing such warrant of attorney, or other security for attending at the jail, and attesting to the execution thereof, the fee or sum of three shillings and four pence currency.

CAP. IV.

An Act to alter certain provisions of the Act now in force regulating the sale by license of spirituous liquors.

19 Vic. c. 2.

[Passed April 15, 1857.]

WHEREAS the authority to vend spirituous liquors by the pint, given by the Act passed in the nineteenth year of her present Majesty's reign, intituled “An Act to consolidate and amend the Acts regulating the sale by license of spirituous liquors,” has been found to be seriously abused:

Regulates the granting of license to sell spirituous liquors.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that no license for the sale of any spirituous or fermented liquors in quantities of one pint, or any greater quantity less than two gallons, shall hereafter be granted to any person whatsoever, unless to such persons as are duly qualified in the manner prescribed by the said recited Act, to obtain tavern licenses, or to such persons as shall, during the continuance of such license, keep a shop or store for the vending of goods, wares or merchandise, and shall be actually engaged therein in the business of vending such goods, wares or merchandise, or who shall be a distiller or manufacturer of spirituous or fermented liquors.

Party applying for license required to produce a certificate that he is a storekeeper, &c., signed by two Justices.

II. That in order to prevent the abuse of licenses to be granted by virtue of this Act, no person shall be deemed a storekeeper or shopkeeper, or a distiller or manufacturer, entitled to such license, unless he shall produce a certificate in writing from two of Her Majesty's Justices of the Peace residing nearest to such person's residence, testifying that such person is a distiller or manufacturer of spirituous or fermented liquors, or storekeeper, or shopkeeper carrying on business as such, and in the opinion of the Justices so certifying, lawfully entitled to such license, agreeably to the form of the schedule to this Act annexed, and for which certificate the said Justices shall be entitled to one shilling and six pence.

SCHEDULE (A.)

Certificate that applicant for license is a storekeeper or distiller, &c.

This is to certify that *A. B.*, residing at _____ is now carrying on business as (storekeeper, shopkeeper, distiller or manufacturer of distilled or spirituous liquors), at his place of residence aforesaid, and is, in our opinion, entitled to receive a license to sell such liquors by the pint, in pursuance of the Act of the General Assembly, passed in the twentieth year of Her present Majesty's reign, intituled "An Act to alter certain provisions of the Act now in force, regulating the sale by license of spirituous liquors."

Witness our hands this _____ day of _____ 18
C. D., J. P.
E. F., J. P.

CAP. V.

17 Vic. c. 10.

An Act to continue the Act exempting certain bills of exchange, promissory notes, contracts and agreements, from the operation of the laws relating to usury.

[Passed April 15, 1857.]

. This Act continued the 17 Vic., c. 10, for three years, and from thence to the end of the then next session.

CAP. VI.

An Act to provide for the appointment of an additional assistant in the Post Office, and to increase the salary of the present assistant.

See 18 Vic. c. 19.

[Passed April 15, 1857.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, as follows:

I. From and after the passing of this Act, the Lieutenant Governor, or other Administrator of the Government for the time being, by and with the advice of the Executive Council, shall be, and is hereby empowered, to nominate and appoint an additional assistant in and for the office of Postmaster general in this Island.

Lt. Governor in Council to appoint additional assistant in Postmaster general's office.

II. The assistant to be appointed under this Act shall exercise and perform, and be subject to all the duties, powers, rules, regulations and provisions contained in the Act of the eighteenth Victoria, chapter nineteen, with respect to the assistants in the said recited Act mentioned.

Such assistant to be subject to certain duties, powers, &c.

III. The said assistant for the time being, to be appointed as aforesaid, shall receive as his salary, a sum not exceeding one hundred pounds *per annum*, and the present assistant in the post office, or his successor, shall be paid the sum of thirty pounds *per annum*, in addition to the salary at present received by him.

Salary of assistant appointed under this Act.

CAP. VII.

An Act relating to ferries and Minchin's Point wharf.

See general Act 3 W. 4, c. 8. — Charlottetown ferry Act, 11 Vic., c. 13.

[Passed April 15, 1857.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:—

I. The Lieutenant Governor, or other Administrator of the Government for the time being, in Council, shall be, and is hereby empowered to define the limits or boundaries of the Charlottetown or Hillsborough ferry, and of all other ferries in this Island; and no person shall ferry for hire or reward, taken or to be taken, either directly or indirectly, within the limits or boundaries of the said ferry or ferries, as at present established, or as hereafter to be defined as aforesaid, except the present licensee or licensees of the said ferry or ferries, or his or their or either or any of their successors therein.

Lt. Governor in Council empowered to define limits of Charlottetown and other ferries.

II. The owner or owners of any boat or vessel of any kind or description, or the person or persons working in or man-

Penalty on persons ferrying

for hire, or systematically, without hire, in opposition to licensee.

aging any such boat or vessel used or employed in ferrying for hire or reward, either directly or indirectly as aforesaid, or systematically, and in opposition to the licensee or licensees of the ferry, carrying over without hire or reward passengers, cattle, horses or vehicles, or any other article or thing whatsoever, on any of the said ferries, and within the limits thereof as aforesaid, shall forfeit and pay a sum not exceeding five pounds for each and every time such boat or vessel shall be used or employed in ferrying as aforesaid: provided always, that nothing in this Act contained shall be held or construed to prevent any person or persons from making use of his or their own boat, on the said ferries, for his or their own purposes or convenience: provided the same be not employed in systematically ferrying as aforesaid, in opposition to, or to the manifest injury of the licensee of the ferry for the time being.

Proviso.

Not to prevent persons ferrying for hire, where ferryman neglects his duty, &c.

III. Nothing herein contained shall prevent any person or persons from ferrying for hire on any ferry in this Island, when the ferryman shall not give due attendance, and shall not comply with his duties and the terms of his contract; nor shall anything herein contained prevent any person from ferrying on any such ferry, between sunset and sunrise, if the ferryman of such ferry be not bound to keep boats on said ferry between the said hours of sunset and sunrise.

Minchin's Point wharf to be under the control of Lt. Governor and Council, who may make rules respecting wharfage, &c.

IV. The public wharf, opposite Charlottetown, known as Minchin's Point wharf, shall be under the management and control of the Lieutenant Governor, or other Administrator of the Government for the time being, in Council, who shall have power and authority to make rules, regulations or orders, for establishing rates of wharfage for boats or vessels of any kind, using or coming to the said wharf, for the purpose of landing thereon, or taking from off the same any goods, wares or merchandise deposited, or to be deposited thereon, or passengers, or for vessels or lighters making fast to or lying thereat, for defining the duties of the wharfinger thereof, and for imposing penalties on any person or persons infringing or violating any rule or order, or regulations so made as aforesaid, and for all such other purposes relating to the management of the said wharf, as the said Lieutenant Governor, or other Administrator of the Government for the time being, in Council, may see fit and proper.

Wharfinger to carry out regulations, and collect and sue for wharfage rates, &c.

V. The wharfinger of the said wharf shall observe, perform and carry out, and cause to be observed and enforced, all such rules, orders or regulations as may from time to time be made as aforesaid, for the management of the said wharf, and shall demand, collect, receive, sue for and recover, in Her Majesty's name, in any Court of Commissioners for the recovery of small debts, or in the Mayor's Court for the City of

Charlottetown, or before any Justice of the Peace for the County, all sums of money due from any person or persons for the use of the said wharf, for wharfage rates or otherwise, the same to be recovered on the oath of such wharfinger, or one or more credible witness or witnesses.

VI. Any fine or penalty, whether imposed by this Act, or by the order of the Lieutenant Governor, or other Administrator of the Government for the time being, in Council, or otherwise, under the provisions of this Act, when incurred by any person or persons whomsoever, shall be sued for in Her Majesty's name, before any two Justices of the Peace for the County, or before the Mayor's Court for the city of Charlottetown, on the oath of the licensee of the ferry, or the wharfinger of the said wharf, or of any one or more credible witness or witnesses, and shall be paid to the use of the licensee of the ferry, or other person or persons suing for the same.

Mode of recovering penalties imposed by or under the provisions of this Act.

VII. Upon the trial or hearing of any suit, prosecution or action for any penalty imposed by the second section of this Act, every defendant therein shall and may be subpoenaed and examined as a witness in the said cause, and shall not be exempt or privileged from declaring on oath any matter or fact, whether the same shall tend to his conviction or otherwise.

On hearing of prosecution, defendant to be examined on oath.

CAP. VIII.

An Act for the naturalization of Lawrence Warren.

[Passed April 15, 1857.]

☞ This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

CAP. IX.

An Act to continue and amend the Princetown Royalty Church incorporation Act, and to repeal a certain Act therein mentioned. 14 Vic. c. 15.

[Passed April 15, 1857.]

☞ This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to directions of Act 24 Vic. c. 3.

CAP. X.

An Act for better securing the liberty of the subject.

[Passed April 15th, 1857.]

WHEREAS the present practice of bringing up prisoners on writs of *habeas corpus* is attended with delay, ex-

pense and inconvenience, not in general necessary for the purposes of justice: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:—

On cause shewn Judge may order jail keeper of a jail to return to him whether a prisoner is detained.

I. Upon sufficient cause shewn to any Judge of the Supreme Court, by or on behalf of any person confined in any jail or prison, such Judge may, and is hereby empowered (instead of granting his fiat for a writ of *habeas corpus cum causa*, requiring the keeper of such jail or prison to bring the prisoner before him, in order that the legality of such imprisonment may be inquired into, and discharge, bailment or recommitment had thereon,) by order in writing, signed by him, with his name, addition of office, and place of residence, to require and direct such keeper to return to him whether or no such person is detained in prison, together with the day and cause of his having been taken and detained.

Return to be to same effect as to a writ of *habeas corpus*, &c.

II. It shall be the duty of such keeper, immediately upon the receipt of such order, to make a true and full return in writing to such Judge, of the day and cause of such taking and detention, to the same effect as a return to a writ of *habeas corpus* would now be made, such return always to include a copy of the process, warrant or order upon which the said prisoner is held, where the same is of a criminal nature, or upon any summary complaint or conviction before any Justice of the Peace; and such Judge may enforce obedience to such order, by process of contempt, in the same manner as he may now compel proper return to be made to a writ of *habeas corpus*.

Upon return made, judge to proceed and adjudicate on application, &c.

III. Upon return of such order, the Judge may proceed to examine into and decide upon the legality of the imprisonment, and make such order, require such verification, and direct such notices or further returns in respect thereof, as he may deem necessary or proper for the purposes of justice; and may, and he is hereby empowered, by order in writing, signed as aforesaid, to require the immediate discharge from prison, or may direct the bailment of such prisoner, or in such manner and for such purpose and with like effect and proceeding as is now allowed upon *habeas corpus*; such bail when ordered to be entered into before any Justice of the Peace specially named in such order, or any Justice of the County or place where there is no such nomination.

Keeper to inform his prisoner of the order, &c., and obey it.

IV. It shall be the duty of such keeper, immediately upon the receipt of any order of a Judge, in relation to a prisoner in his custody, to communicate the same to such prisoner, and to give him a true copy thereof, if demanded, and to obey the requirements of the same.

V. Every wilful neglect or disobedience of the order of a Judge, in relation to a prisoner, shall be deemed a misdemeanor, and punishable as such, by fine and imprisonment, or either, at the discretion of the Court.

Wilful neglect, &c., of order, punishable as a misdemeanor.

VI. The matter of the return made to the order of a Judge may be heard and decided on by any other Judge of the Supreme Court, who shall have the same power and jurisdiction in respect thereof as the Judge by whom the first order was made.

Case may be decided by other than the judge who issued the order.

VII. No orders made under this Act shall require or enable the keeper of any jail or prison to discharge the prisoner from any commitment or charge, other than that specified in such order; but it shall be the duty of such keeper in every return made to a Judge's order, to specify the several causes of commitment and detention, if more than one, and if between the time of making a return and receiving an order for the discharge or bailment, any other warrant, process or order shall have been delivered to him, requiring the detention of the prisoner, upon any charge of a criminal nature or summary complaint or conviction, such keeper shall, without any further order, make and transmit to the Judge an additional return, with a copy of such warrant, process or order, and the time of receiving the same, which may be dealt with by such Judge as if made pursuant to an order for that purpose granted.

No order to discharge a prisoner for cause not specified.

VIII. Nothing in this Act contained shall extend, or be construed to deprive any person who may have been falsely imprisoned, from his remedy by civil writ, against any person who may have illegally caused such imprisonment; but the Judge, by whom relief may be afforded under this Act, may, by his order, exempt any such keeper of a jail from civil writ, who may appear to him to have acted upon the warrant or order of any Judge or Justice, according to the requirement of the same, without malice or evil intent, although such warrant or order may be bad in form or substance; and any such order of exemption may be pleaded in bar to any action brought against such keeper.

Act not to preclude remedy for false imprisonment.

CAP. XI.

An Act to enable the Supreme Court of Judicature to give relief against adverse claims made against Sheriffs and other persons, having no interest in the subject of such claims.

Amended by 22 Vic. c. 14.

[Passed April 15, 1857.]

WHEREAS it often happens, that a person sued at law for the recovery of money or goods, wherein he has

no interest, and which are also claimed of him by some third party, has no means of relieving himself from such adverse claims but by a suit in equity against the plaintiff and such third party, usually called a bill of interpleader, which is attended with expenses and delay: for remedy thereof:

Court may order third party to appear and maintain or relinquish his claim.

I. Be it enacted, by the Lieutenant Governor, Council, and Assembly, that upon application made by or on the behalf of any defendant, sued in Her Majesty's Supreme Court of Judicature, in any action of assumpsit, debt, detinue or trover, such application being made after declaration and before plea, by affidavit or otherwise, showing that such defendant does not claim any interest in the subject matter of the suit, but that the right thereto is claimed or supposed to belong to some third party, who has sued, or is expected to sue for the same, and that such defendant does not in any manner collude with such third party, but is ready to bring into Court or to pay or dispose of the subject matter of the action, in such manner as the Court, or any Judge thereof, may order or direct—it shall be lawful for the Court, or any Judge thereof, to make rules and orders calling upon such third party to appear and to state the nature and particulars of his claim, maintain or relinquish his claim; and upon such rule or order to hear the allegations as well of such third party as of the plaintiff; and in the mean time to stay the proceedings in such action, and finally to order such third party to make himself defendant in the same or some other action, or to proceed to trial on one or more feigned issue or issues; and also to direct which of the parties shall be plaintiff or defendant on such trial, or with the consent of the plaintiff, and such third party, their counsel or attorneys, to dispose of the merits of their claims, and determine the same in a summary manner; and to make such other rules and orders therein, as to costs and all other matters, as may appear to be just and reasonable.

Judgment and decision to be final.

II. That the judgment in such action or issue as may be directed by the Court or Judge, and the decision of the Court or Judge, in a summary manner, shall be final and conclusive against the parties and all persons claiming by, from or under them.

If such third party shall not appear, &c., the Court may bar his claim against the original defendant.

III. That if such third party shall not appear upon such rule or order to maintain or relinquish his claim, being duly served therewith, or shall neglect or refuse to comply with any rule or order to be made after appearance, it shall be lawful for the Court or Judge to declare such third party, and all persons claiming by, from or under him, to be forever barred from prosecuting his claim against the original

defendant, his executors or administrators: saving, nevertheless, the right or claim of such third party against the plaintiff, and thereupon to make such order between such defendant and the plaintiff, as to costs and other matters as may appear just and reasonable.

IV. Provided also, that if, upon application to a Judge in the first instance, or in any later stage of the proceedings, he shall think the matter more fit for the decision of the Court, it shall be lawful for him to refer the matter to the Court, and thereupon the Court shall and may hear and dispose of the same, in the same manner as if the proceeding had originally commenced by rule of Court, instead of an order of a Judge.

If Judge think fit he may refer the matter to the Court.

V. And whereas difficulties sometimes arise in the execution of process against goods and chattels, issued by or under the authority of the said Supreme Court, by reason of claims made to such goods and chattels by assignees and other persons not being the parties against whom such process was issued, whereby Sheriffs and other officers are exposed to the hazard and expense of actions, and it is reasonable to afford relief and protection in such cases to such Sheriffs, and other officers: Be it therefore further enacted, by the authority aforesaid, that when any such claim shall be made to any goods or chattels taken, or intended to be taken in execution under any such process, or to the proceeds or value thereof, it shall and may be lawful to and for the Court from which such process issued upon application of such Sheriff, or other officer, made before or after the return of such process, and as well before as after any action brought against such Sheriff or other officer, to call before them by rule of Court, as well the party issuing such process as the party making such claim; and thereupon to exercise for the adjustment of such claims, and the relief and protection of the Sheriff or other officer, all or any of the powers and authorities hereinbefore contained; and make such rules and decisions as shall appear to be just, according to the circumstances of the case; and the costs of all such proceedings shall be in the discretion of the Court.

Relief of a similar nature given to Sheriffs, and other officers, on execution of process against goods and chattels.

VI. That all rules, orders, matters and decisions to be made and done in pursuance of this Act, except only the affidavit to be filed, may, together with the declaration in the cause, if any, be entered on record, with a note in the margin, expressing the true date of such entry; to the end that the same may be evidence in future times, if required, and to secure and enforce the payment of costs directed by any such rule or order; and every such rule or order so entered shall have the force and effect of a judgment, except only as to becoming a charge on any lands, tenements or hereditaments; and in case any costs shall not be paid within fifteen days after notice of

Rules, orders, &c., made in pursuance of this Act may be entered of record and made evidence.

the taxation and amount thereof, given to the party ordered to pay the same, his agent or attorney, execution may issue for the same, by *fieri facias* or *capias ad satisfaciendum* adapted to the case, together with the costs of such entry and of the execution, if by *fieri facias*, and such writ and writs, may bear teste on the day of issuing the same, whether in term or vacation, and the Sheriff or other officer executing any such writ, shall be entitled to the same fees, and no more, as upon any similar writ grounded upon the judgment of the Court.

CAP. XII.

15 Vic., c. 41.

An Act to continue and amend the Act to prevent horses, swine and geese from going at large in Georgetown.

[Passed April 15, 1857.]

☞ This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to Act 24 Vic., c. 3.

CAP. XIII.

An Act granting a yearly sum to the New York, Newfoundland and London Telegraph Company.

[Passed April 15, 1857.]

☞ This Act is in force, but is printed in the volume of private and local Acts, pursuant to Act 24 Vic., c. 3.

CAP. XIV.

15 Vic., c. 6.

An Act to continue the Act relating to packets sailing between this Island and the Provinces of Nova Scotia and New Brunswick.

[Passed April 15, 1857.]

. This Act continued the 15 Vic., c. 6, for three years from the passing thereof, and from thence to the end of the then next session.

CAP. XV.

16 Vic. c. 19.

An Act in further amendment of an Act made and passed in the sixteenth year of the reign of Her present Majesty, intituled "An Act to incorporate the Charlottetown gas light company."

[Passed April 15, 1857.]

☞ This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to Act 24 Vic., c. 3.

CAP. XVI.

An Act to enable Henry Bessemer to obtain letters patent for the invention or discovery of certain improvements in the manufacture of malleable or bar iron or steel.

[Passed April 15, 1857.]

☞ This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic., cap. 3.

CAP. XVII.

An Act to continue and amend the free education law.

[Passed April 15, 1857.]

15 Vic., c. 23.
Repealed by
24 Vic., c. 36.

CAP. XVIII.

An Act to incorporate the ministers and trustees of the Free Church congregation in the city of Charlottetown.

[Passed April 15, 1857.]

☞ This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

CAP. XIX.

An Act for the incorporation of certain bodies connected with the Bible Christian Church in Prince Edward Island, and to repeal a certain Act therein mentioned.

[Passed April 15, 1857.]

☞ This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to Act 24 Vic., cap. 3.

CAP. XX.

An Act to explain and amend the Act authorizing the purchase of lands by the Government, and to remove certain doubts as to the powers of the Commissioner of public lands thereunder.

16 Vic., c. 18.

[Passed April 15, 1857.]

WHEREAS in and by the fifth section of the Act of the sixteenth Victoria, chapter eighteen, intituled "An Act for the purchase of lands on behalf of the Government of Prince Edward Island, and to regulate the sale and management thereof, and for other purposes therein mentioned," the Commissioner of public lands, after any tender for the sale of lands has been referred to, and reported on, by him, and the purchase of such lands authorized to be made as therein mentioned, is authorized and empowered, on behalf of the Gov-

Preamble.

16 Vic., c. 18.

ernment of this Island, to contract for, and purchase the lands tendered for sale, and to enter into all necessary agreements therefor, in writing or otherwise, and to take deeds and conveyances thereof, to and for the intents and purposes set forth in the said Act, and in the form or to the effect in schedule (A), in the said Act contained and set forth, or in any other form which he may think fit, or the circumstances of each case may render necessary or advisable; and all such lands, when so purchased and conveyed by and to the said Commissioner of public lands, under the said Act, shall be held by him for such purposes, and subject to such powers, provisions, regulations and authorities, in every respect as are set forth, contained and declared in and by the said Act concerning the same: and whereas, on certain purchases and conveyances of lands heretofore made, agreements were entered into between the Commissioner of public lands and the vendors, or some one or more of them, to the effect, that if any tenants or occupiers of any of the lands conveyed should, within a certain period or periods from the date of the conveyance or conveyances respectively, refuse to attorn to, or recognize the title of the Commissioner of public lands thereunder, that then the said Commissioner of public lands should be at liberty, under the directions of the Lieutenant Governor and Council, at or before the expiration of such period or periods, as the case may be, to reconvey all or any part of the land or lands held by any such refractory tenant or occupier, or more of them, to the vendors, their heirs or assigns, or to them, with certain other parties together with them, or in such manner as they, their heirs or assigns, might direct or appoint: and whereas doubts have been expressed as to the power of the Commissioner of public lands to make such conveyances or reconveyances, or pass any estate thereby, amongst other things on account of the twenty-sixth section of the said recited Act prohibiting the Commissioner of public lands from making sale, to any one person, of parcels exceeding three hundred acres, on any one township; whereas, on the other hand, it is considered that such conveyance or reconveyance does not amount to a sale, within the meaning of the Act, but is only made in pursuance or by virtue of a condition made and reserved by the Commissioner of public lands, on purchasing the lands, and subject to which the same were taken: and whereas, in order to facilitate the working of the said purchase bill, and to preserve the Government from losses and law suits thereunder, it is desirable to remove such doubts, and to declare and establish the power of the Commissioner of public lands in the matters aforesaid, both with respect to purchases and agreements already made and entered into, and those which may hereafter be made or entered into: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:—

I. All contracts or agreements heretofore entered into or made, or hereafter to be entered into or made, by the Commissioner of public lands, with the vendor or vendors of any lands purchased or to be purchased by the Government, and conveyed to the Commissioner of public lands, under the said recited Act, for the conveyance or reconveyance to the vendors, or any other parties pointed out or named in the contract or agreement, of any part or portion of lands purchased, in the event of any of the tenants refusing to attorn as aforesaid, or in the event of the occurrence of any other contingency named in the agreement or contract, shall be good and valid, and binding on the parties thereto, notwithstanding the same may involve the conveyance, by the Commissioner of public lands, of a greater quantity of land than three hundred acres, on any township, to any one person; and all deeds of conveyance or reconveyance, executed by the Commissioner of public lands, or to be executed, whether before or after the passing of this Act, in pursuance of any such agreement or contract, shall be held and deemed to have been, and hereafter to be good and valid in law, to convey to, and vest in the parties to whom the conveyance has been or shall be made, all the estate, right, title and interest of the said Commissioner of public lands, in and to the lands therein described and mentioned, to be thereby conveyed or released; and all his claim and demand on the same, and the lands so conveyed, or hereafter to be conveyed, shall be by the parties to whom the conveyance has been or shall be held made, (as the case may be), freed and discharged from the original deed of conveyance from the vendor or vendors to the Commissioner of public lands: provided always, that where any such deed of conveyance or reconveyance shall have been executed by the Commissioner of public lands, or any other parties thereto, before the passing of this Act, the execution of the same must hereafter be again acknowledged by the Commissioner of public lands, and such other parties, in the presence of the Attorney or Solicitor general, for the purpose of giving it force and effect, before the same shall have any force or effect; but so soon as such reacknowledgment shall have taken place, the deed of conveyance or reconveyance, to which it shall relate, shall come into force and operation, and shall be deemed to have come into force and operation on the day on which it bears date or was executed by the Commissioner of public lands.

Agreements between "the Commissioner of public lands" and vendors of estate, for reconveyance of lands, in case of tenants refusing to attorn, &c.

Proviso.

II. If any tenant or occupier of any part of any lands heretofore conveyed, or hereafter to be conveyed to, or vested in the Commissioner of public lands, under the said recited Act, after having been called upon, in manner as required by the said Act, to come forward and purchase the land in his occupation, shall have neglected or refused so to do, or shall hereafter, after having been so called upon, neglect or refuse

What to be deemed a refusal to attorn on the part of a tenant, in order to render his lands liable to be conveyed.

so to do, he shall be held to have refused to attorn to, or recognize the title of the Commissioner of public lands, under the conveyance to him of the lands, (as the case may be), and the land in his occupation liable to be conveyed or reconveyed to the original vendors, or otherwise, as before in this Act mentioned, in accordance with any agreement made, or to be made, for that purpose; and such conveyance or reconveyance to the original vendors, or otherwise, shall be good and valid, whether made either before the time set forth in the contract or agreement relating thereto, or at or after the time set forth.

Parties to whom reconveyances are made may sue in their own names for arrears of rents, &c.

III. In bringing actions for rents, or arrears of rent, in respect of land so reconveyed, or hereafter to be reconveyed, and which have accrued or shall accrue to the parties to whom the reconveyance has been or shall hereafter be made, or to any party or parties, under or through whom they were, are, or may be entitled to claim the same, it shall be lawful for the parties to whom the reconveyance has been, or shall be so made, to bring all actions in their individual names, or otherwise, and as if the same had never been vested in the Commissioner of public lands; and in no case shall it be necessary for them to sue in the Commissioner's name.

What proof required of validity of deed of reconveyance, where same shall be required to be given in evidence, &c.

IV. In all cases, in which any such deed of conveyance or reconveyance, from the Commissioner of public lands, as before in this Act mentioned, shall be required to be given in evidence, in order to prove that the estate of the Commissioner of public lands has thereby passed to the parties to whom the conveyance or reconveyance has been or shall be made, it shall be unnecessary to give further proof of the same, than to prove the signatures of the Commissioner of public lands, and of the Lieutenant Governor, signed or countersigned, or affixed to the same; which shall be sufficient proof of the deed of conveyance or reconveyance, and the validity thereof, to pass the estate of the Commissioner of public lands, in manner as therein mentioned, and entitle it to be given and received in evidence, for the purposes aforesaid, or for any other purpose, for which the same shall be required to be proved or given in evidence.

CAP. XXI.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and fifty-seven.

Enacted.

[Passed April 15, 1857.]

ANNO VICESIMO PRIMO

VICTORIÆ REGINÆ.

At the General Assembly of Her Majesty's Island of PRINCE 1858.

EDWARD, begun and holden at CHARLOTTETOWN, the sixteenth day of February, *Anno Domini* 1858, in the twenty-first year of the Reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, Queen, Defender of the Faith:

Sir D. DALY,
Lt. Governor.

CHAS. YOUNG,
President of
L. Council.

Being the fourth session of the twentieth General Assembly convened in the said Island.

E. THORNTON,
Speaker of H.
of Assembly.

CAP. I.

An Act for raising a revenue.

Expired.

[Passed April 1, 1858.]

CAP. II.

Repealed by 24
Vic. c. 10.

An Act relating to the mode of summoning grand and petit jurors to serve under special commissions of oyer and terminer and general jail delivery, also to make provisions to prevent the failure of justice, on account of errors made in the return of jury panels, and for other purposes therein mentioned.

[Passed April 1, 1858.]

Confirms ap-
pointment of
constables and
fence viewers
made in last
term of Su-
preme Court in
King's County.

CAP. III.

An Act to confirm the appointment of constables and fence viewers for King's County made at the last term thereof of the Supreme Court.

[Passed April 1, 1858.]

. This Act confirmed the appointment of Constables and Fence Viewers for King's County, in March Term, 1858, and all acts done by them respectively.

CAP. IV.

An Act to increase the rate of interest on treasury warrants.

[Passed April 1, 1858.]

Interest at the
rate of six per
cent. per annum
to be paid on
warrants here-
after to be is-
sued.

14 Vic. c. 20.

WHEREAS it is deemed expedient to increase the rate of interest on all treasury warrants hereafter to be issued: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that from and after the passing of this Act the interest of six pounds *per centum per annum* shall be paid on all treasury warrants hereafter to be issued, instead of the rate of five pounds *per centum*, mentioned in the eighth section of the Act fourteenth Victoria, chapter twenty.

CAP. V.

15 Vic. c. 29.

An Act to continue a certain Act therein mentioned relating to the Central Academy.

[Passed April 1, 1858.]

. The Act 15 Vic. cap. 29, which was continued by this Act, has been repealed by 28 Vic. c. 17.

CAP. VI.

An Act to continue the Act regulating the publishing of notices and advertisements relating to the public service. 15 Vic., c. 31.

[Passed April 1, 1858.]


WHEREAS the Act of the fifteenth Victoria, chapter thirty-one, intituled "An Act to regulate the publishing of notices and advertisements relating to the public service," will shortly expire, and it is deemed expedient to continue the same: 15 Vic. c. 31.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That the said hereinbefore recited Act of the fifteenth Victoria, chapter thirty-one, shall be, and the same is hereby continued in force for the period of ten years from the passing hereof, and from thence to the end of the then next session of the General Assembly, and no longer. Continues 15 Vic. cap. 31, for ten years.

CAP. VII.

An Act relating to accidents by fire in Summerside, and for the removal of nuisances from the streets thereof.

[Passed April 1, 1858.]

 This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

CAP. VIII.

An Act to make Bonds and other securities to the Crown binding on the real estate of the debtors.

[Passed April 1, 1858.]

BE it enacted by the Lieutenant Governor, Council and Assembly, That all bonds, recognizances, and warrants of attorney, hereafter to be given for the payment of duties, or other debts or dues to Her Majesty, shall operate as a charge upon all lands, tenements and hereditaments, of or to which any person entering into, giving or executing the same, shall, at the date thereof, or at any time afterwards, until the amount secured be fully paid, be seized, possessed or entitled, for any estate or interest whatever, at law or in equity, whether in possession, reversion, remainder or expectancy, or over which such person shall, at the time of giving such bond, recognizance or warrant of attorney, (as the case may be), or at any time afterwards whilst it remains unsatisfied, have any disposing power which he might, without the assent of any other

All bonds securing duties and other debts to Crown, hereafter given, to bind real estate of parties entering into same;

and be as binding, as if judgment had actually been entered thereon in Supreme Court at the suit of Her Majesty.

person, exercise for his own benefit; and shall be binding as against the person so giving or executing the same, and against all persons claiming under him after the date hereof; and shall also be binding as against the issue of his body, and all other persons whom he might, without the consent of any other person, cut off and debar from any remainder, reversion or other interest, in or out of any of the said lands, tenements and hereditaments, as fully and effectually, to all intents and purposes, as if judgment had been recovered, and stood against such person at the suit of Her Majesty in Her Majesty's Supreme Court of Judicature; and any judgment to be recovered or entered up on any such recognizance, bond, or warrant of attorney, shall be deemed, so far as to charge such lands, tenements, and hereditaments and render them available to be taken and sold under execution, to be issued for that purpose, to relate back to the date of the bond, recognizance or warrant of attorney, (as the case may be), on which the same may be entered.

CAP. IX.

For Acts relating to the militia, see 20 G. c. 1.

An Act subjecting the Militia to the mutiny Act and articles of war.

[Passed April 1th, 1858.]

WHEREAS, in pursuance of the recommendation of the Secretary of State for war, as referred to in a despatch from the Right Honorable Henry Labouchere, Secretary of State for the Colonies, to His Excellency Sir Dominick Daly, Lieutenant Governor, dated Downing Street, the thirteenth day of June, one thousand eight hundred and fifty-seven, it is deemed expedient to subject the militia of this Island to the mutiny Act and articles of war, when that force may be called out for service, either during war or actual invasion or rebellion: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows, that is to say:

Lt. Governor, when he deems it advisable, on account of war, &c., may call out militia.

I. From and after the passing of this Act, the Lieutenant Governor of this Island, or the Administrator of the Government for the time being, shall have full power to call out the militia of this Island, or any part thereof, whenever it shall, in his opinion, be advisable so to do, by reason of war, invasion, or insurrection, riot, or civil commotion, or imminent danger of any of them.

Militia, when on actual service, to be liable to articles of war and mutiny Act, &c.

II. The militia so called out, and every officer and man belonging to it, from the time he shall be ordered, taken or drafted for actual service, shall be subject to the articles of war and to the Act of the Imperial Parliament for punishing

mutiny and desertion; and to all other laws in this Island applicable to Her Majesty's troops, except that no militia man shall be subject to any corporal punishment, except death or imprisonment, for any contravention of such laws; and except also, that the Lieutenant Governor, or Administrator of the Government for the time being, as aforesaid, may direct that any provisions of the said laws shall not apply to the militia of this Island.

CAP. X.

An Act to prevent the running at large of swine in Summer-side and vicinity.

Amended by 23
Vic., c. 19.

[Passed April 1, 1858.]

☞ This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to Act 24 Vic., c. 3.

CAP. XI.

An Act to provide for the collection in this Island of the Cape Race lighthouse toll.

[Passed April 1, 1858.]

WHEREAS Her Majesty, in exercise of the powers vested in her by the provisions of the merchant shipping Act amendment Act, 1855, has, by order in Council, been pleased to direct that there shall be paid by the masters or owners of the several classes of vessels following, that is to say: all ships, whether sailing ships or steamships, navigating from any port or ports in the British Colonies in North America, to any port or ports in the United Kingdom; all ships, whether sailing ships or steamships, navigating from any port or ports in the United Kingdom, to any port or ports in the British Colonies in North America; all ships, whether sailing ships or steamships, bound from any port or ports in the British Colonies in North America upon any transatlantic voyage; all ships, whether steamships or sailing ships, arriving at any port or ports in the British Colonies in North America after any transatlantic voyage,—the toll of one sixteenth of a penny sterling *per* ton of the burden of every such ship, except ships belonging to Her Majesty, her heirs and successors, for every such voyage as aforesaid: and whereas it is necessary to provide for the collection of the said toll in this Island:

Merchant ship-
ping Act
amendment
Act, 1855.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows, that is to say: there shall be collected in this Island from the master or owner of every such ship—except ships belonging to Her Majesty, her heirs

One sixteenth
of a penny ster-
ling *per* ton to
be collected on

II vessels
clearing out-
wards;

also, same
amount on ves-
sel arriving,
unless paid at
port whence
the ship came.

Amount of
tolls, &c., to be
rendered quar-
terly.

Mode of suing
for and collect-
ing toll, &c.

and successors as aforesaid—at the port of clearance, before the vessel clears on her outward voyage, the said toll of one sixteenth of a penny sterling *per* ton of the burden of such ship for every such voyage as aforesaid; and in case of such ships arriving in this Island, the said toll shall be demanded and collected from the master or owner of every such ship after each voyage as aforesaid, unless a receipt is produced, shewing that the toll for the voyage has been paid at the port from which the ship had cleared.

II. The proper officer in this Island shall render to the committee of Her Majesty's Privy Council for trade, a quarterly account of the amount of tolls received in this Island, with the particulars of such vessels which have paid the toll.

III. The said toll shall be collected, paid over, sued for and recovered, in the same manner as is directed by the Act of the nineteenth Victoria, chapter fourteen, with respect to the light duties therein mentioned; and the provisions of the said last recited Act relating to the recovery of the light duties or toll therein mentioned, the mode of enforcing the payment thereof, and all other provisions of said Act, when applicable and not inconsistent with this Act, shall apply to, and be put in force for the collection of the said Cape Race lighthouse toll, as if the provisions of the said Act were incorporated herein.

CAP. XII.

An Act relating to the fishery reserves in this Island.

[Passed April 1, 1858.]

. This Act was disallowed by Her Majesty.—See order in Council, dated 20th October, 1858, published in *Royal Gazette* newspaper of this Island 25th February, 1859.

CAP. XIII.

An Act to provide for the hearing and determination of causes in the Supreme Court, in certain cases where the Judges are interested, or otherwise.

[Passed April 1, 1858.]

WHEREAS it is necessary to provide, as hereinafter mentioned, for the trial of causes in the Supreme Court of Judicature of this Island, the determination of which is or may be delayed by reason of the Chief Justice and assistant Judge of the Supreme Court refusing or declining to hear such causes, on the ground of their being or having been interested in the same: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows, that is to say:

I. It shall and may be lawful for the Lieutenant Governor, or other Administrator of the Government for the time being, by and with the advice and consent of Her Majesty's Executive Council of this Island, from time to time, as occasion may require, to issue, or cause to be issued, a special commission under the great seal of this Island, directed to a fit and proper person, being a barrister of not less than five years' standing, either at the bar of this Island, or of England, or of any of the British Colonies, for the hearing and determination of any cause or causes to be named in such commission, which now are, or hereafter may be pending in the Supreme Court of this Island, and which the said Chief Justice and assistant Judge of the said Court, for the time being, shall have refused to hear as aforesaid; and the person to be appointed as aforesaid, shall, with respect to such cause or causes, and all judicial act or acts relating thereto, until their final end and termination, be considered a Judge of the said Court; and shall, as such Judge, be invested with all the powers of the Supreme Court of this Island during the sitting thereof, or of any Judge thereof.

Lt. Governor, &c., may appoint officially qualified parties to hear causes.

II. The person to be appointed as aforesaid, shall sit for the purpose of hearing such cause or causes as aforesaid, during the regular terms of the Supreme Court; and such cause or causes shall be tried, heard and determined in all respects in the same way and manner as other causes in the said Court, and as if the same were being heard and determined in the ordinary manner by the Supreme Court.

Person so appointed to hear causes during the regular terms of the Supreme Court.

III. The person so appointed to hear any cause as aforesaid, shall, while sitting to hear the same, be paid the sum of three pounds *per diem* for every day he shall so sit to hear such cause; and shall be entitled to receive and be paid the same fees for any order or act done by him with respect to the said causes as to the Chief Justice or assistant Judges of the Supreme Court in the like cases.

Allowance and fees to be paid to party appointed and hearing causes under this Act.

CAP. XIV.

An Act for the safe custody of insane persons charged with offences, and otherwise to amend the law with respect to offenders convicted of crimes punishable with death.

[Passed April 1, 1858.]

WHEREAS persons charged with high treason, murder or felony, may be of unsound mind at the time of committing the offences wherewith they shall be charged, and by reason of such insanity may be found not guilty of such offences, and it may be dangerous to permit persons so

acquitted to go at large: Be it the refore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

Where a person charged with murder, treason, &c., shall be acquitted on the ground of insanity, jury shall find same specially, &c.

I. That in all cases, where it shall be given in evidence upon the trial of any person charged with treason, murder or felony, that such person was insane at the time of the commission of such offence, and such person shall be acquitted, the jury shall be required to find specially, whether such person was insane at the time of the commission of such offence, and to declare whether such person was acquitted by them on account of such insanity; and if they shall find that such person was insane at the time of committing such offence, the Court before whom such trial shall be had shall order such person to be kept in strict custody, in such place and in such manner as to the Court shall seem fit, until the pleasure of the Lieutenant Governor in Council shall be known; and it shall thereupon be lawful for the Lieutenant Governor in Council to give such order for the safe keeping of such person during his pleasure, in such place and in such manner as to the Lieutenant Governor in Council shall seem fit; and in all cases, where any person, before the passing of this Act, has been acquitted of any such offences on the ground of insanity at the time of the commission thereof, and has been detained in custody as a dangerous person, by order of the Court before whom such person has been tried, and still remains in custody, it shall be lawful for the Lieutenant Governor in Council to give the like order for the safe custody of such person, during his pleasure, as he is hereby enabled to give in the case of persons who shall hereafter be acquitted on the ground of insanity.

Insane persons indicted for offence, &c., shall be ordered by the Court to be kept in custody till Lt. Governor's pleasure be known, &c.

II. If any person indicted for any offence shall be insane, and shall, upon arraignment, be found to be so by a jury lawfully empanelled for that purpose, so that such person cannot be tried upon such indictment; or if, upon the trial of any person so indicted, such person shall appear to the jury charged with such indictment to be insane, it shall be lawful for the Court before whom any such person shall be brought to be arraigned or tried as aforesaid, to direct such finding to be recorded, and thereupon to order such person to be kept in strict custody until the pleasure of the Lieutenant Governor in Council shall be known; and if any person charged with any offence shall be brought before any Court to be discharged for want of prosecution, and such person shall appear to be insane, it shall be lawful for such Court to order a jury to be empanelled to try the sanity of such person; and if the jury so empanelled shall find such person to be insane, it shall be lawful for such Court to order such person to be kept in strict custody, in such place and in such manner as to such Court shall seem fit, until the pleasure of the Lieutenant Governor

in Council shall be known ; and in all cases of insanity so found, it shall be lawful for the Lieutenant Governor in Council to give such order for the safe custody of such person so found to be insane, during his pleasure, in such place and in such manner as to him shall seem fit.

III. And for the better prevention of crime being committed by persons insane, if any person shall be discovered and apprehended under circumstances denoting a derangement of mind and a purpose of committing some crime, for which, if committed, such person shall be liable to be indicted, it shall be lawful for any two Justices of the Peace of the County, before whom such person may be brought, to call to their assistance a physician or surgeon ; and if, upon examination of the said person so apprehended, or from other proof, the said Justices shall be satisfied that such person is insane, or a dangerous idiot, it shall be lawful for the said Justices, by warrant under their hands and seals, to commit such person to the jail of the County, there to be kept in strict custody until such person shall be discharged by the order of two Justices of the Peace—one whereof shall be one of the Justices who has signed such warrant—or by one of the Judges of the Supreme Court, or until such person shall be removed, by order of the Lieutenant Governor in Council, to a proper lunatic asylum, or to custody of guardians.

Any two Justices may commit person being insane &c.

IV. In cases where the Lieutenant Governor of this Island, on behalf of Her Majesty, heretofore has been, or hereafter shall be, pleased to extend mercy to any offender convicted of any crime punishable with death, upon any condition whatsoever, whether of imprisonment for life or otherwise, and whether any particular place of confinement be specified in the document signifying the extension of such mercy or not ; and such extension of mercy shall be duly signified to the Court before which such offender hath been or shall be convicted, or any other Court with the like authority, or to any Judge of the Supreme Court, such Court or Judge shall allow to such offender the benefit of a conditional pardon, and make an order immediately to carry out the condition imposed ; and such allowance and order shall be considered as an allowance and order made by the Court before which the offender was convicted, and shall be entered on the records of the same Court by the proper officer thereof ; and shall, when made by a Judge, be as effectual, to all intents and purposes, and have the same consequences, as if such allowance and order had been made by the Court during the continuance thereof ; and every such order shall subject the offender to be confined in such place or places as may be named in the document extending mercy, subject to be changed, from time to time, as to the place and mode of confinement and otherwise, by order

Where Her Majesty's mercy has been extended to a convicted criminal on condition, &c., same shall be notified to the Court, &c.

of the Lieutenant Governor in Council, as to the Lieutenant Governor in Council shall seem meet and proper; and in no case shall the previous consent of any offender to a conditional pardon be deemed necessary or be required.

C A P. X V.

Continued by
22 Vic. c. 9.

An Act to continue for certain purposes, the seduction Act, and to make other provisions in lieu thereof as regards all future actions.

[Passed April 1, 1858.]

Act 15 Vic. cap.
23, continued
until comple-
tion of pending
suits.

BE it enacted by the Lieutenant Governor, Council and Assembly, that an Act made and passed in the fifteenth year of the reign of her present Majesty intituled "An Act to provide a summary remedy for females in certain cases of seduction," shall be continued so long and no longer than may be necessary to admit of all cases now pending under and by virtue of the said recited Act to be finally completed and ended.

Unmarried wo-
man to apply
to Chief Justice
&c., to nomi-
nate parties to
hear her suit.

II. When and so often as it shall happen that any unmarried woman shall have borne an illegitimate child, and is under the necessity of suing the father thereof for any damages she may thereby have sustained, as well as for aid towards the support of such child, it shall be lawful for such woman, either by her attorney, or in person, to apply to the Chief Justice or any other Judge of the Supreme Court, for an order in writing nominating any one, two, or three persons, each of whom shall be either one of Her Majesty's Justices of the Peace, or a Commissioner of small debts, for the purpose of hearing and determining the suit of such woman.

Chief Justice
to authorise
Justice, &c. to
determine the
cause.

III. The said Chief Justice or other Judge, upon such application, shall and may make an order in writing, under his hand, directed to any one, two, or three person or persons holding such office or offices as aforesaid, and resident in the County where the plaintiff in such suit shall reside, authorizing such person or persons to hear and determine such suit.

Persons so au-
thorised, to
hear cause and
give judgment,
&c.

IV. The person or persons so authorized shall have power and authority to hear and determine such suit, and give such judgment therein, either with or without costs, to either party, or with such part or portion of costs as to him or them shall seem just and reasonable; and the hearing of the cause shall be conducted in as private a manner as the circumstances of the case shall admit of.

Mode of com-
mencing suit,
&c.

V. The suit shall be commenced either by summons, according to schedule (A) of this Act, or by *capias*, according to

schedule (B), as the circumstances of the case may require; and if commenced by *capias*, the same shall not be issued until affidavit of the cause of action shall first be duly sworn before the person, or one of the persons having cognizance of the said suit; and which affidavit shall be in substance and effect according to the form in schedule (C.)

VI. The summons shall be served in like manner and time as is prescribed by the Act of the General Assembly of this Island for the service of summonses for small debts; and the *capias* shall be executed by any constable or constables, or bound bailiff of the county to whom directed.

Mode of serving summons and executing *capias*.

VII. Upon the appearance of the defendant in pursuance of such *capias*, a day shall be named by the Justice or Justices, Commissioner or Commissioners intending to try the said cause, such day being within fifteen days from the appearance of the defendant under such *capias*, exclusive of the day of such appearance; and in the meantime, the defendant may be discharged from custody, upon entering into a recognizance, with two sufficient sureties, for his appearance at the day of hearing, and to pay the amount of such judgment as shall be awarded against him at such time or times, and in such manner as shall, in and by such judgment, be prescribed; or in default thereof, to render himself to the custody of the constable or bailiff who arrested him, or to such other constable or bailiff as shall be nominated by any Justice or Justices, Commissioner or Commissioners who tried the cause, and thereupon to be committed to prison; the form of which recognizance shall be in substance and effect as set forth in schedule (D.)

On appearance of defendant on *capias*, the day for hearing the cause shall be named, &c.

VIII. On the day appointed for hearing the said cause, the Justice or Justices, Commissioner or Commissioners, having heard the parties and their witnesses, if any, and the plaintiff and her witnesses, if any, where the defendant makes default in his appearance, after being duly summoned or *capiased* as aforesaid, shall proceed to give such judgment therein, either by dismissing the said suit against the plaintiff or awarding for the said plaintiff such amount of money as to such Justice or Justices, Commissioner or Commissioners shall seem just and reasonable, not exceeding in the whole the sum of thirty pounds; and also to order and adjudge that the whole amount so awarded to the plaintiff shall be paid to her for herself and child, or that a part only, to be expressed in such judgment, shall be paid to her for her own benefit, and that the residue shall be paid for the support and benefit of her said child, to such person as the said Justice or Justices, Commissioner or Commissioners shall for that purpose nominate, and in such instalments, and at such particular time as in such order or

Justice, &c. after hearing parties may give judgment in suit.

judgment shall be expressed ; and such person so nominated shall be a trustee for the child of the said plaintiff, as respects such sum of money so to be paid to him, and shall have the application and be accountable for the appropriation thereof.

In case of default in payment of sum awarded, execution may be taken against defendant's goods and chattels.

IX. In case default shall be made in payment of the amount adjudged to the said plaintiff, or to any trustee, where such trustee shall have been appointed, or of any part or instalment thereof, and as often as such default shall happen, execution may issue for the sum due, first against, and to be levied on the goods and chattels of the said defendant ; and in default of such goods and chattels, or of sufficient thereof to satisfy such execution, then against the body of the said defendant, who shall thereupon be committed to the debtor's prison for the said County, there to remain until he shall satisfy the amount or balance of levy due on said execution.

Persons taking false oath guilty of perjury, &c.

X. Any person to whom an oath shall be administered under the provisions of this Act, wilfully swearing falsely, and being convicted thereof, shall be liable to the penalties of wilful and corrupt perjury.

Person considering himself or herself aggrieved under this Act, may appeal to Supreme Court.

XI. Any person who shall consider himself or herself aggrieved by any order or judgment of any Justice or Justices, Commissioner or Commissioners under this Act, shall be at liberty to appeal to the then next sitting of Her Majesty's Supreme Court of Judicature, to be holden in the County wherein such judgment shall have been given ; and such appeal shall be granted in manner, and at the time, and subject to the rules and conditions prescribed by law in cases for the recovery of small debts ; and all costs to be awarded under this Act shall be in conformity with the costs authorized in such cases.

Interpretation of words "Justices," & "Commissioners," where used in this Act.

XII. The word "Justices" shall be deemed to mean and include under this Act a Commissioner of small debts and a Justice of the Peace, as well as two Justices of the Peace ; and the word "Commissioner" shall be deemed to mean and include a Justice of the Peace and a Commissioner of small debts, as well as two Commissioners of small debts.

Supreme Court may cause defects in appeal papers, &c., to be amended.

XIII. It shall be lawful for the said Supreme Court, at any time before any appeal shall be fully heard, or for any Justice of the said Court, at chambers, to make an order for the amendment of any defect in form or substance in any of the papers or proceedings relating to, or connected with any such appeal ; and such order shall and may be made with or without cause being shewn against the same, and upon such terms and conditions as to such Court or Justice shall seem just and reasonable.

XIV. This Act shall continue and be in force for the term of one year from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer. Continuance
of Act.

SCHEDULES to which this Act refers.

SCHEDULE (A.)

County.

G. H., Plaintiff, }
and } Before *A. B.*, or *A. B.* and *C. D.*, or *A.* Form of sum-
I. K., Defendant. } *B.*, *C. D.* and *E. F.*, Esquires. mons.

You are hereby required to be and appear before me (or us) at the dwelling house of _____ on the _____ day of _____ instant (or next ensuing), at the hour of _____ o'clock, in the fore (or after) noon, to answer the plaintiff in an action of damages, accrued to her by reason of her illegitimate child, of which she alleges you are the father; and in default of your appearance, you will be proceeded against as to justice shall appertain.

Given under my (or our) hand (or hands) and seal (or seals) this _____ day of _____ 18

A. B. (L. S.)
C. D. (L. S.)
E. F. (L. S.)

To the defendant, *L. M.*

SCHEDULE (B.)

To either of the constables or bailiffs of _____

Form of capias.

You are hereby commanded to take *I. K.*, of _____ in whatsoever County he may be found, and bring him before me (or us), to answer *G. H.* upon her charge for an illegitimate child. Hereof fail not.

Given under our hands (or my hand) and seals (or seal), this _____ day of _____ 18

A. B. (L. S.)
C. D. (L. S.)
E. F. (L. S.)

SCHEDULE (C.)

G. H., of _____ single woman, maketh oath and saith, Form of affi-
that on or about the _____ day of _____ 18, this davit to obtain
deponent was delivered of a male (or female) child, and that capias.
I. K., of _____ is the father of the said child, and this de-

ANNO VICESIMO SECUNDO

VICTORIÆ REGINÆ.

At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the twelfth day of April, *Anno Domini* 1859, in the twenty-second year of the reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, Queen, Defender of the Faith:

1859.

Sir D. DALY,
Lt. Governor.

CHAS. YOUNG,
President of
L. Council.

Being the first session of the twenty-first General Assembly convened in the said Island.

D. MONTGOMERY
Speaker of H.
of Assembly.

CAP. I.

An Act for raising a revenue.

Expired.

[Passed April 29th, 1859.]

CAP. II.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and fifty-nine. Executed.

[Passed May 19, 1859.]

CAP. III.

An Act to extend the criminal jurisdiction of the Police Court, in the City of Charlottetown.

[Passed May 19, 1859.]

~~BE~~ This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to Act 24 Vic., cap. 3.

CAP. IV.

An Act to enable aliens to hold real estate.

[Passed May 19, 1859.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:—

Aliens may hold and convey real estate in this Island.

I. Aliens may take, hold, convey, and transmit real estate in this Island: provided always, that no alien, nor any person in trust for him, shall take or hold more than two hundred acres of land within this Island.

No title to be invalid on account of alienage of former owner.

II. No title to real estate shall be invalid on account of the alienage of any former owner or holder thereof.

The title of an alien now invalid not confirmed by this Act.

III. Nothing in this Act shall have the effect of confirming or rendering valid the title or claim of any alien now invalid or incapable of being enforced on account of alienage.

Suspending clause.

IV. This Act shall not go into operation, nor be of any force or effect until Her Majesty's assent thereto shall be known, and notification thereof published in the *Royal Gazette* newspaper of this Island.

. This Act received the royal assent on the 29th day of July, 1859, and notification thereof was published in the *Royal Gazette* newspaper of this Island, on the 6th day of September, 1859.

CAP. V.

11 Vic., c. 16. An Act to continue the Act authorizing the appointment of coal meters, except in so far as relates to Charlottetown.

[Passed May 19, 1859.]

WHEREAS the Act of the eleventh year of Her present Majesty's reign, chapter sixteen, intituled "An Act to consolidate and amend the laws now in force, authorizing the appointment of coal meters, and to repeal a certain Act therein mentioned," will shortly expire, and it is deemed expedient to continue the same, except in so far as relates to Charlottetown:

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that the said hereinbefore recited Act, except so much of the said Act as relates to Charlottetown, and regulates the mode of measuring coal therein, shall be, and the same is hereby continued for the space of ten years from the passing hereof, and from thence to the end of the then next session of the General Assembly, and no longer.

Continues 11
Vic., c. 16, for
ten years.

CAP. VI.

An Act to incorporate the trustees of the Baptist Church at Bedeque.

[Passed May 19, 1859.]

☞ This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

CAP. VII.

An Act to amend the Act for the protection of the herring and alewives' fisheries in this Island.

Repealed by
24 Vic., c. 7.

[Passed May 19, 1859.]

CAP. VIII.

An Act for regulating the size and quality of fish barrels and tierces, and the weight of fish made up therein, and for the appointment of fish inspectors; also, to regulate the inspection of pickled fish for sale within this Island, and to repeal a certain Act therein mentioned.

[Passed May 19, 1859.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, that from and after the passing of this Act, an Act passed in the twelfth year of the reign of Her present Majesty, intituled "An Act to repeal an Act passed in the seventh year of the reign of Her present Majesty, intituled 'An Act for regulating the size and quality of fish barrels and tierces, and the weight of fish made up therein, and for the appointment of fish inspectors; also, to regulate the inspection of pickled fish,' and to make other provisions in lieu thereof," be, and the same is hereby repealed; and whereas it is desirable that there should be an uniformity in the size and quality of barrels, half barrels and tierces in which pickled fish shall be packed for home consumption, and that the weight of fish the same shall contain should be regulated:

Repeals Act of
12 Vic., c. 15.

Barrels, half barrels, &c., containing pickled fish for exportation, &c., how to be made.

Be it therefore enacted, that all barrels, half barrels and tierces in which pickled fish for home consumption shall be packed for sale, shall be made of sound, well seasoned timber, free from sap, and constructed of staves of the thickness of not less than half an inch in the thinnest part, if made of hardwood, or three fourths of an inch if made of softwood, with heading well seasoned and planed, and free from sap; the barrels, half barrels and tierces to be well hooped, having at least three hoops on each chime, and three on each bilge; the barrel staves to be twenty-eight inches in length, and the heads to be seventeen inches between the chimes, and to contain not less than twenty-eight gallons; the half barrels to contain not less than fifteen gallons, and the tierce to contain not less than forty-five gallons; and all such barrels shall have the bung stave made of hardwood.

Weight of imported pickled fish to be contained in tierce barrel, &c.

II. Every tierce of imported pickled fish shall contain not less than three hundred pounds of fish; every barrel of such fish shall contain not less than two hundred pounds; and every half barrel of such fish shall contain not less than one hundred pounds.

Penalty on persons selling imported pickled fish in barrels, &c., of less weight.

III. Any person or persons who shall sell, or cause to be sold, any imported pickled fish in barrels, half barrels, or tierces, having therein a less weight than is prescribed by this Act, shall, for each and every barrel, half barrel, or tierce so sold, forfeit and pay a fine of seven shillings and six pence; the same to be recovered and applied in manner and to the purposes hereinafter in this Act directed and declared.

Lt. Governor to appoint fish inspectors.

IV. And whereas frauds and impositions to a serious extent are frequently perpetrated upon individuals by the importing and vending, within this Island, pickled fish of an inferior and unwholesome quality: Be it therefore enacted, that from and after the passing of this Act, it shall and may be lawful to and for the Lieutenant Governor, or other Administrator of the Government for the time being, to appoint in each of the different towns, ports, harbors, and settlements in this Island, or in such one or more thereof as he shall think fit and proper, an inspector or inspectors, who shall be duly sworn in the form prescribed in the schedule to this Act annexed, marked (A), to the faithful discharge of the duties enjoined by this Act, before any Justice of the Peace residing within or near the district for which such inspector or inspectors shall be appointed, whose duty it shall be, within their several districts, to inspect all barrels, half barrels, and tierces, as to their being of the size and quality prescribed in this Act, and also to inspect and weigh all salted or pickled fish imported into this Island in any barrel, half barrel, or tierce, for sale and consumption therein; and the same, in all cases wherein the fish so made up shall be found good and mer-

chantable, and of the weight required by law, after inspection, to brand in plain and legible letters on the head of each and every cask in which such fish shall be packed or repacked, the initials of the Christian name or names of the inspector or inspectors examining the same, with his or their surname or surnames in full, the year in which they are inspected, at large, and the letters "P. E. I.," for Prince Edward Island, with the addition of the mark "No. 1," where the fish, on such inspection, shall appear of the first or best quality, and the mark "No. 2," where the fish shall appear of the second quality; and the mark "No. 3," where the fish shall be of a quality fit for consumption, but inferior to the second quality; and that on all barrels or casks of fish so branded, shall also be marked the kind or denomination of fish, as also the weight thereof contained in each barrel or cask, together with the date of such inspection; and all casks so inspected shall be filled with fish of one and the same kind and quality; and if any person or persons shall intermix, take out, or replace with fish of worse quality, any inspected fish, which shall or may be packed in any barrel, half barrel, or tierce, branded as aforesaid, or put therein any other fish, for sale and consumption within this Island, contrary to the true intent and meaning of this Act, each and every person so offending shall forfeit and pay a sum not exceeding five pounds for each and every barrel, half barrel, or tierce of fish that shall or may be so intermixed, or out of which the whole or any part thereof shall or may be taken or exchanged as aforesaid.

Inspectors to brand barrels, &c., in which fish is packed:

Description of brand.

V. That in all cases where pickled fish shall be made up in barrels, half barrels, or tierces, in this Island, for exportation therefrom, it shall be optional with the owner or owners of such fish, either to cause the said fish to be inspected and branded under the authority of this Act, or to export the same without being inspected or branded as aforesaid.

Optional with exporter of pickled fish to have it inspected and branded or not.

VI. If any inspector or inspectors of salted or pickled fish shall brand any barrel, half barrel or tierce, the contents of which shall not have been first inspected and weighed by him or them, according to the true intent and meaning of this Act, or if he or they shall permit any other person or persons to use his or their brands in violation or evasion of this Act, or if he or they shall brand, or cause, or shall knowingly suffer to be branded, any barrel, half barrel, or tierce, before the fish shall have been packed therein, each and every inspector so offending shall forfeit and pay the sum of two pounds, currency, for every barrel, half barrel or tierce so branded, and shall also be liable to be removed from office; such fine to be recovered, with costs, on the oath or oaths of one or more credible witness or witnesses, by any person who shall sue for the same.

Penalty on inspector for branding barrels, &c., not inspected.

Penalty on persons counterfeiting inspector's brand.

VII. If any person or persons shall be found guilty of counterfeiting any inspector's brand or mark, or who shall use the same with the intention to evade the provisions of this Act, each and every such person shall be liable to pay a fine or penalty of five pounds for every such offence.

Where persons refuse to assist packing, &c., inspector may engage assistance.

VIII. In all cases where the person or persons employing any inspector, shall neglect or refuse to furnish such assistance as may be necessary to enable the said inspector to weigh and pack at least twenty barrels of fish *per* day, it shall and may be lawful for the said inspector to employ such person or persons as he may require, to weigh and pack such fish, for which he shall be entitled to receive from the person or persons who shall employ him, over and above the charge for inspection, the sum of five pence *per* barrel for every barrel so inspected, and a proportionate rate for half barrels and tierces.

Rate of remuneration to be paid inspectors.

IX. For every barrel of fish inspected, weighed and branded by any inspector, appointed by virtue of this Act, the sum of eight pence; and for every barrel of fish which shall be inspected only, the sum of four pence shall be paid to such inspector by the person or persons for whom he inspected or branded the same, and the same in proportion for half barrels and tierces.

Penalty on inspectors inspecting their own fish.

X. It shall not be lawful for any inspector to inspect or brand his own fish; and every such inspector, so inspecting or branding his own fish, shall be subject and liable to the same penalties and forfeitures, on the sale thereof, as if such fish had not been inspected or branded; to be recovered and applied in way and manner pointed out by this Act.

Penalty, &c., on persons selling imported pickled fish not inspected.

XI. Every person who shall sell, or expose for sale, or shall permit or suffer to be sold, or exposed for sale, any pickled fish, by him imported into this Island, before the same shall be duly inspected in manner required by this Act, shall forfeit and pay for every barrel, half barrel, tierce or cask so sold, or exposed for sale, the sum of ten shillings; and all such fish shall become forfeited to Her Majesty, and after the same shall be sold, the proceeds thereof, deducting all necessary expenses, shall be paid into the treasury of this Island, to and for the use of Her Majesty's Government.

Pickled herring, &c., imported in bulk, may be inspected within two days after sale.

XII. Should any herrings, mackerel, alewives, or other salted fish, be imported in bulk, or if any quantity thereof be sold, or offered for sale, in bulk, in this Colony, it shall be lawful for the purchaser of the said fish to have the quantity thereof by him purchased inspected within two days after the sale of such fish; and should the same, on inspection, be found unsound, they shall be destroyed, and the vender or venders of such fish shall be liable to the purchaser for the

price thereof, if paid for, and the charges thereon ; to be recovered before any Commissioner or Commissioners for the recovery of small debts, in such manner as small debts may be recovered, if not exceeding eight pounds, and if above that sum, then in Her Majesty's Supreme Court of Judicature, and in all cases with costs of suit.

XIII. No payment, reward, perquisite, or other valuable consideration shall be charged or recoverable, directly or indirectly, by any fish inspector, for any commission, percentage storage, or factorage for or relating to the same, care or management of such fish by him inspected ; nor shall any such inspector in any manner appropriate to his own use or advantage any fish by him condemned as unsound, and which shall thereby be forfeited ; and every inspector of fish who shall have offended against the provisions of this section, besides being liable to be removed from office, shall forfeit and pay for every such offence any sum not less than one pound, nor more than ten pounds ; the same to be recovered, with costs of suit, in Her Majesty's Supreme Court of Judicature, upon the oath of any one or more credible witness or witnesses, and to be appropriated to and for the use of Her Majesty's Government.

No charge, &c. to be made by inspector for storage, or care of fish, &c.

XIV. In all suits which may be brought in any Court of this Island, by or against any fish inspector, for or in respect of any act or proceeding by him alleged to have been done relative to his duty as inspector, the *onus probandi* of the regular size and quality of any barrels, half barrels, tierces, or other casks, and of the proper weight, quality, branding, and of the due compliance with all the other requisitions of this Act, shall be on the party asserting the same, any law, usage, or custom to the contrary thereof notwithstanding.

In actions against inspectors, the *onus probandi* of size, quality, branding, &c., of barrels, &c., to be on party asserting same.

XV. No fish inspector shall be allowed to enter upon the duties of his office, until he shall, with two sufficient sureties, have made and duly executed a bond, which shall be in the form prescribed in the schedule to this Act annexed, marked (B). to Her Majesty, in the penalty of fifty pounds, conditioned for the honest, faithful, and skilful discharge of his duty ; and in case any inspector appointed under this Act, shall enter upon the duties of his office before having executed such bond, he shall be liable to pay for every such offence the sum of five pounds ; the same to be recovered, with costs, upon the oath of one or more credible witness or witnesses, one moiety to be paid to the person prosecuting, and the other moiety into the treasury of this Island, to and for the use of Her Majesty's Government ; and it shall be part of said duty of every fish inspector every six months, from and after the passing of this Act, to render to the Lieutenant Governor in Council an ac-

Inspector to give bond with two sureties, before entering on duties of office.

count, in writing, containing the full quantity and kind of fish by him inspected, with the names of the owners or importers, and the place or places from whence such fish shall have been imported; and also the amount of all moneys received by such inspector, whether as fees, penalties, or otherwise.

Fines, &c., imposed under this Act, how recovered.

XVI. All fines, penalties and forfeitures imposed and arising by virtue of this Act, when the same shall not exceed the sum of five pounds, shall be recovered before any one of Her Majesty's Justices of the Peace, or where the same shall be more than five pounds, and shall not exceed eight pounds, before any two of Her Majesty's Justices of the Peace, together with the costs of prosecution, on the oath of one or more credible witness or witnesses, and at the suit of any person or persons who shall sue for the same, and shall and may be levied by warrant of distress, under the hand and seal, or hands and seals of such Justice or Justices, and sale of the offender's goods and chattels; and for want of sufficient distress, such offender or offenders shall suffer not less than five days', nor more than two months' imprisonment; and in case such fine shall exceed the sum of eight pounds, the same may be recovered in Her Majesty's Supreme Court of Judicature of this Island, by action of debt, together with costs of suit: one half of all such fines, penalties, and forfeitures to be paid to the person or persons who shall sue for the same, and the other half to be paid into the treasury of this Island, to and for the use of Her Majesty's Government.

Continuance of Act.

XVII. And be it enacted, that this Act shall continue and be in force for five years, and from thence to the end of the then next session of the General Assembly.

SCHEDULES to which this Act refers.

SCHEDULE (A.)

Form of Inspector's oath on taking office.

Form of Inspector's oath on taking office.

I, *A. B.*, do swear, that I will faithfully, and without fear or partiality, execute and perform the duties of fish inspector in pursuance of, and according to the manner required and prescribed by the Act of the General Assembly of this Island, in such case made and provided, and according to the best of my skill and ability.

So help me God.

A. B.

SCHEDULE (B.)

Form of Bond to be given by inspector.

Know all men by these presents, that we are
 jointly and severally held and firmly bound unto our sovereign Form of Bond
 Lady Queen Victoria, her heirs and successors, in the penal to be given by
 sum of inspector. pounds, of good and lawful money of the said
 Island, to be paid to our said Lady the Queen, her heirs or
 successors, for which payment, well and truly to be made, we
 bind ourselves, and each of us by himself, our and each of our
 heirs, executors and administrators, firmly by these presents,
 sealed with our seals and dated this day of
 in the year of our Lord one thousand eight hundred and

Whereas the above bounden hath been duly
 appointed an inspector of pickled fish for the port or harbor
 of under and by virtue of an Act of the General
 Assembly of this Island, relating to the inspection of pickled
 fish: Now, the condition of the above obligation is such, that
 if the above bounden as such Inspector of pickled
 fish, as aforesaid, shall and do honestly, faithfully, and skil-
 fully demean and conduct himself in his said office, and in all
 things appertaining thereto, in terms of the said Act of the
 General Assembly of this Island, relating to the said office of
 inspector of pickled fish, then the above obligation to be void,
 otherwise to remain in full force and virtue.

Signed, sealed and delivered in the }
 presence of }

CAP. IX.

An Act to continue certain Acts therein mentioned.

[Passed May 19, 1859.]

WHEREAS the Act of the twelfth year of her present 12 Vic., c. 34.
 Majesty's reign, chapter thirty-four, intituled "An Act
 for the appointment of Clerks to Justices of the Peace, and to
 regulate proceedings had before them;" and also the Act of
 the twenty-first year of Her present Majesty's reign, chapter 21 Vic. cap. 15.
 fifteen, intituled "An Act to continue for certain purposes
 the seduction Act, and to make other provisions in lieu thereof
 as regards all future actions," will shortly severally expire, and
 it is deemed expedient to continue the same:

I. Be it therefore enacted, by the Lieutenant Governor, Continues 12
 Council and Assembly, That the said hereinbefore recited Vic. c. 34, and
 Acts shall be, and the same are hereby respectively continued 21 Vic. c. 15,
 for the space of five years from the passing hereof, and from for five years.
 thence to the end of the then next session of the General As-
 sembly, and no longer.

CAP. X.

Repealed by
24 Vic., c. 2.

An Act to amend the Act to consolidate and amend the laws relating to statute labor and the expenditure of public moneys on the highways.

[Passed May 19th, 1859.]

CAP. XI.

16 Vic. c. 19.

An Act further to amend the Act incorporating the Charlottetown gas light company.

[Passed May 19, 1859.]

☞ This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

CAP. XII.

9 Vic. c. 27.

An Act further to continue an Act regulating seamen shipped on board of any ship or vessel belonging to Prince Edward Island, whilst within the precincts of the said Island.

[Passed May 19, 1859.]

Continues Act
of 9th Vic. cap.
27, for 5 years.

BE it enacted, by the Lieutenant Governor, Council and Assembly, That an Act passed in the ninth year of the reign of her present Majesty Queen Victoria, intituled "An Act to make provision for the regulation of seamen shipped on board of any ship or vessel owned in or belonging to Prince Edward Island, whilst such ship or vessel shall be within the precincts of the said Island," and which was continued by an Act passed in the thirteenth year of the said reign, intituled "An Act to continue several Acts therein mentioned," and which was further continued by an Act passed in the fifteenth year of the said reign, intituled "An Act further to continue an Act regulating seamen shipped on board of any ship or vessel belonging to Prince Edward Island, whilst within the precincts of the said Island," be, and the same is hereby further continued and declared to be in force for the space of five years from the passing hereof, and from thence to the end of the then next session of the General Assembly, and no longer.

CAP. XIII.

Repealed by 24
Vic. c. 16.

An Act to continue an Act for the better prevention of smuggling.

[Passed May 19, 1859.]

CAP. XIV.

An Act to amend the Act to enable the Supreme Court of Judicature to give relief against adverse claims made against Sheriffs, and other persons, having no interest in the subject of such claims. 20 Vic. c. 11.

[Passed May 19, 1859.]


WHEREAS under the fifth section of the Act of the twentieth Victoria, chapter eleven, intituled "An Act to enable the Supreme Court of Judicature to give relief against adverse claims made against Sheriffs, and other persons, having no interest in the subject of such claims," power is given to the Supreme Court to give relief and protection to Sheriffs and other officers, in cases where claims are made to goods and chattels, by assignees, and other persons, not being the parties against whom process against such goods and chattels was issued: and whereas it is deemed expedient to extend the powers conferred by the said section upon the Supreme Court to and upon any Judge of the said Court during vacation: 20 Vic. c. 11,
sec. 5.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That in all cases whatsoever, where any such claims as those referred to in and by the said section of the said recited Act, shall be made to any goods or chattels taken, or intended to be taken in execution, under any process in the hands of any Sheriff or other officer, or to the proceeds or value thereof, any Justice of the Court from which such process issued shall have as full power and authority in vacation, upon application of such Sheriff or other officer made to him, to afford relief and protection to such Sheriff or other officer in all matters and things touching any such claims, or the application made to him regarding the same, in all respects as fully as the Court itself, from which such process issued, can or is entitled to exercise by the said fifth section of the said recited Act. Extends the powers conferred by 5th sec. of recited Act upon Supreme Court, to any Judge thereof, during vacation.

CAP. XV.

An Act to incorporate the minister and trustees of the Free Church congregation, Bedeque road.

[Passed May 19, 1859.]

 This Act is printed in the volume of private and local Acts, pursuant to Act 24 Vic. cap. 3.

CAP. XVI.

5 W. 4, c. 5;
17 Vic. c. 16.

An Act to amend the Acts concerning the property of the Methodist Church in Prince Edward Island.

[Passed May 19, 1859.]

☞ This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to Act 24 Vic., c. 3.

CAP. XVII.

An Act to incorporate the minister and trustees of the Free Church congregation at New London.

[Passed May 19, 1859.]

☞ This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic., c. 3.

ANNO VICESIMO TERTIO

VICTORIÆ REGINÆ.

At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the sixteenth day of February, *Anno Domini* 1860, in the twenty-third year of the Reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, Queen, Defender of the Faith:

Being the second session of the twenty-first General Assembly convened in the said Island.

1860.

G. DUNDAS,
Lt. Governor.

CHAS. YOUNG,
President of
L. Council.

D. MONTGOMERY
Speaker of H.
of Assembly.

CAP. I.

An Act for raising a revenue.

Expired.

[Passed April 25, 1860.]

CAP. II.

An Act to amend the Act for raising a revenue.

Expired.

[Passed May 2, 1860.]

CAP. III.

6 Vic., c. 26. An Act for the amendment of an Act passed in the sixth year of the reign of Her Majesty Queen Victoria, intituled "An Act to repeal an Act made and passed in the twenty-first year of the reign of King George the Third, intituled 'An Act relating to wills, legacies and executors, and for the settlement and distribution of the estates of intestates, and to make other provisions in lieu thereof.'"

[Passed May 2, 1860.]

WHEREAS the laws with respect to the execution of wills require amendment: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

I. Whereas by an Act passed in the sixth year of the reign of Her Majesty Queen Victoria, intituled "An Act to repeal an Act made and passed in the twenty-first year of the reign of King George the Third, intituled 'An Act relating to wills, legacies and executors, and for the settlement and distribution of the estates of intestates, and to make other provisions in lieu thereof,'" it is enacted, that no will shall be valid unless it shall be signed at the foot or end thereof by the testator, or by some other person in his presence, and by his direction: every will shall, so far only as regards the position of the signature of the testator, or of the person signing for him as aforesaid, be deemed to be valid within the said enactment, as explained by this Act; if the signature shall be so placed at or after, or following, or under, or beside, or opposite to the end of the will, that it shall be apparent on the face of the will, that the testator intended to give effect by such his signature to the writing signed as his will, and that no such will shall be affected by the circumstance, that the signature shall not follow or be immediately after the foot or end of the will, or by the circumstance that a blank space shall intervene between the concluding word of the will and the signature, or by the circumstance that the signature shall be placed among the words of the *testimonium* clause, or of the clause of attestation, or shall follow, or be after, or under the clause of attestation, either with or without a blank space intervening, or shall follow, or be after, or under, or beside the names of or one of the names of the subscribing witnesses, or by the circumstance, that the signature shall be on a side or page or other portion of the paper or papers containing the will, whereon no clause or paragraph, or disposing part of the will shall be written above the signature, or by the circumstance, that there shall appear to be sufficient space on or at the bottom of the preceding side or page or other portion of the same

Recites 6 Vic.,
c. 26, part of
sec. 7.

In what res-
pects validity
of will is affec-
ted by position
of signature.

paper on which the will is written to contain the signature ; and the enumeration of the above circumstances shall not restrict the generality of the above enactment, but no signature under the said Act or this Act shall be operative to give effect to any disposition or direction which is underneath, or which follows it, nor shall it give effect to any disposition or direction inserted after the signature shall be made.

II. The provisions of this Act shall extend and be applied to every will already made, where administration or probate has not already been granted or ordered by a Court of competent jurisdiction, in consequence of the defective execution of such will, or where the property not being within the jurisdiction of the ecclesiastical Courts has not been possessed or enjoyed by some person or persons claiming to be entitled thereto in consequence of the defective execution of such will, or the right thereto shall not have been decided to be in some other person or persons than the person claiming under the will by a Court of competent jurisdiction, in consequence of the defective execution of such will.

To what description of will provisions of Act to extend.

III. The word "will" shall, in the construction of this Act, be interpreted in like manner as the same is directed to be interpreted under the provisions in this behalf contained in the said Act of the sixth year of the reign of Her Majesty Queen Victoria, intituled "An Act to repeal an Act made and passed in the twenty-first year of the reign of King George the Third, intituled 'An Act relating to wills, legacies and executors, and for the settlement and distribution of the estates of intestates, and to make other provisions in lieu thereof.'"

The word "will" in this Act to be construed same as in 6 Vic. c. 26.

IV. That so much of the forty-sixth and forty-ninth clauses of the said recited Act as limits the application of executors, administrators and creditors to the term of three years to make application for license for the sale of or letting of real estate towards payment of debts, shall be, and the same is hereby repealed, and that the said term shall be extended as to all future applications to the period of six years.

Repeals certain parts of 6 Vic., c. 26.

V. This Act may be cited as "the Wills' Act amendment Act, 1860."

Title of Act.

CAP. IV.

An Act to amend the "Act to regulate the registry of deeds and instruments relating to the title to land, and to repeal the laws heretofore passed for that purpose."

[Passed May 2, 1860.]

WHEREAS the Act passed in the third year of the reign of his late Majesty King William the Fourth, intituled

"An Act to regulate the registry of deeds and instruments relating to the title to land, and to repeal the laws heretofore passed for that purpose," requires amendment: Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows:

Registrar of deeds to register deeds relating to lands in this Island, &c. on proof on oath of handwriting of grantor, &c.

I. That the Registrar of deeds for this Island shall and may register all deeds and instruments relating to the title to land within this Island, or its dependencies, which have been made and executed within this Island, or its dependencies, although the subscribing witness or witnesses thereto may be dead or absent from this Island, or its dependencies, provided the handwriting of the grantor or grantors, or the handwriting of the subscribing witness or witnesses, shall, before the registry thereof, be duly proved, on oath, before the said registrar, by some person or persons duly acquainted with the handwriting of the said grantor or grantors, or with the handwriting of the subscribing witness or witnesses, and who shall also at the same time make oath, that he or they believe that the subscribing witness or witnesses to the said deed or instrument relating to the title to land, is or are dead or absent from this Island, at the time of the proving thereof before the said registrar.

Registrar to endorse certificate of proof of handwriting of grantor, &c.

II. The registrar of deeds shall duly endorse and sign upon the said deed or instrument relating to the title to land, a certificate of the said proof* of the handwriting of the grantor or grantors, or of the handwriting of the subscribing witness or witnesses, and of the death or absence from the Island, or its dependencies, of the subscribing witness, or witnesses, at the time of proving the same; and shall also enter and sign a minute thereof, in the margin of the registry book, opposite to the commencement of the record.

Memorial of decree in equity, or judgment, &c. to be prior lien on lands, &c.

III. A memorial or entry of a decree in equity, or of a judgment at law, duly recorded in the office of the registrar of deeds in this Island, shall in all cases be a prior lien and charge upon any lands, tenements and hereditaments conveyed, granted or mortgaged by any unregistered deed or instrument in as full and ample a manner, as if the said unregistered deed or instrument had never been made or executed.

No mortgage to have any priority, in certain cases.

IV. No mortgage, judgment, or other incumbrance on land shall have any priority, by reason of being held by or vested in a person who has a prior registered mortgage of the same land.

CAP. V.

An Act to alter and amend the Act relating to the establishment of township boundary lines. 4 W. 4, c. 15.

[Passed May 2d, 1860.]

WHEREAS difficulties are sometimes experienced by the Commissioners appointed under the Act of the fourth year of the reign of King William the Fourth, chapter fifteen, in running or establishing such township boundaries as commence on the sea shore or coast of this Island and terminate at a river, or as commence at a river and terminate at a river, and *vice versa*, but do not intersect the Island by running from coast to coast, inasmuch as they are required by the existing law to establish all such boundary lines by running the same from the sea coast or place of commencement, continuously to the extremity of every such township boundary, although it has been found in some cases, that the extreme points of such boundary lines, as recognized or acted upon by the owners or proprietors of the adjoining townships, or parts of townships, on each side thereof, cannot be connected by a continuous or strait line run according to the course laid down in the said recited Act,—for remedy whereof:

I. Be it enacted, by the Lieutenant Governor, Council and Assembly, That in all cases, where it shall be ascertained by the Commissioners appointed, or to be appointed, under the said recited Act of the fourth year of the reign of King William the Fourth, chapter fifteen, or any Act or Acts in amendment thereof, that the extreme points of any township boundary line which commences on the sea shore or coast of this Island, or at a river or inlet, and terminates at a river or inlet, have been recognized or acted upon by the owners or proprietors of the townships or parts of townships adjoining the same on each side as the township boundary between such lands, it shall be lawful for the said Commissioners, and they are hereby required, having first duly ascertained the extreme points of such township boundary line which have been so recognized or acted upon, to run from such extreme points, according to the course prescribed by the said Act; and in all cases, where such lines do not meet or correspond with the original plan or survey of the Island, or with the original grant or grants, or such other satisfactory evidence as the said Commissioners may receive, the boundary shall be settled, and connected by a line perpendicular to the said lines, either north or south, east or west, as the case may be, and at such part of the line as shall be best calculated, in the judgment of the said Commissioners, to give to each party his due quantity or proportion of land, any thing in the third section of the Act made and passed in the seventh year of the reign

Mode to be adopted by commissioners in running and settling township boundary lines, in certain cases.

of his late Majesty King William the Fourth, intituled "An Act to explain and amend an Act passed in the fourth year of his present Majesty's reign, intituled 'An Act for ascertaining and establishing the boundary lines of Counties and townships and parts of townships, and for regulating the duty of surveyors, and to repeal a certain Act therein mentioned,'" to the contrary notwithstanding.

Recital.

Mode of ascertaining boundary lines, where a deficiency in the actual breadth of the Island exists, as compared with the original map, &c.

II. And whereas, either from the inaccuracy of the original survey, or from encroachments gradually made by the sea, the Island in some parts has been found much narrower than the map represents it to be, and consequently if the lengths of the side lines given in the grants of the townships in such parts or districts of the Island were actually run, such lines would considerably overlap each other: Be it therefore enacted, that in all cases where it shall be ascertained by the said Commissioners, that there is a deficiency in the actual breadth of the Island, as compared with the original map of the same, or the descriptions in the grants, and where the rear or dividing lines between townships abutting upon each other have not been already established under the authority of the said recited Act of the fourth year of the reign of King William the Fourth, chapter fifteen, or any Act or Acts in amendment thereof, and where no such rear or dividing line has been recognized and acted upon by the owners or proprietors of such adjoining townships, it shall be lawful for the said Commissioners, and they are hereby authorized and required, in fixing and establishing such rear or dividing lines, to apportion the deficiency ratably and fairly between such owners or proprietors: provided always, that it shall be open to any such owner or proprietor, if he or she shall feel himself, or herself, aggrieved by the decision of the said Commissioners, in any such case, to bring the matter of the said decision before the Supreme Court of Judicature of the said Island, by way of appeal therefrom, or by affidavit, setting forth the grounds of his or her objection to such decision; and the said Supreme Court shall have full power to examine and investigate into such decision, and the grounds thereof, either upon affidavits or by the examination of witnesses *viva voce*, touching the same; and if it shall appear to the said Court, that such rear or dividing line had been previously legally fixed or established between the owners or proprietors of such townships, or had been recognized and acted upon by them in any other place than that fixed by the said Commissioners, it shall have power to make an order either wholly setting aside and annulling such decision or act of the said Commissioners, or correcting or altering the same in such way and manner as in its wisdom it may deem just and right, and to grant or award costs to either of such owners or proprietors, or to apportion the same as in its discretion it may think fit.


III. And whereas doubts have arisen, whether the commissioners appointed under the said recited Act of the fourth year of the reign of King William the Fourth, chapter fifteen, can legally demand from the party or parties upon whose application any line has been run or established, the full amount of their fees in cases where all the parties interested in such line have not joined in making such application: Be it therefore enacted and declared, that in all cases, where any township line shall be run or established by the said commissioners, the party or parties upon whose application the said commissioners shall have acted shall be legally answerable to such commissioners for the whole amount of their fees and charges, including the fees or charges of the surveyors employed by them according to the scale thereof, prescribed in and by the said recited Act of the seventh year of the reign of King William the Fourth, chapter ten; and such party or parties so paying such fees and charges shall be entitled to receive from any other owner or proprietor of lands interested in such line, (such owner or proprietor not owning less than one thousand acres of land bounding upon such line), a ratable proportion of such fees and charges; and to recover the same by action of debt in the Supreme Court of Judicature of the said Island.

Party, upon whose application commissioners have acted, liable to such commissioners for their fees, &c.

CAP. VI.

An Act to authorize the appointment of a harbor and ballast master for Hillsborough Bay, and that part of the port of Charlottetown not within the control of the city Council.

[Passed May 2, 1860.]

 This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to Act 24 Vic., c. 3.

CAP. VII.

An Act to amend the Act relating to judgments recovered in the Supreme Court of this Island, and to amend an Act therein mentioned.

12 Vic. c. 2.
Further amended by 24 Vic., c. 5.

[Passed May 2, 1860.]

WHEREAS doubts have arisen as to the right of a plaintiff in Her Majesty's Supreme Court of Judicature to levy and sell, under an execution issued on a judgment in the said Court, the equitable estate or interest of a defendant in or to any lands, tenements or hereditaments, although a judgment in the said Court by the Act passed in the twelfth year of the

reign of Her present Majesty Queen Victoria, intituled "An Act relating to judgments recovered in the Supreme Court of this Island, and to amend an Act therein mentioned," is declared to be a charge upon any estate or interest therein at law or in equity: for remedy whereof—

Plaintiff in Supreme Court may take in execution under any judgment therein, equitable interest of any defendant in any lands.

I. Be it enacted, by the Lieutenant Governor, Council and Assembly, that from and after the passing hereof, it shall and may be lawful for any plaintiff to take in execution in the Supreme Court of Judicature of this Island, under and by virtue of any judgment therein, the equitable estate or interest of any defendant in or to any lands, tenements or hereditaments, and to sell the same for the payment of his debts, in the same manner, as if the said defendant were seized or possessed of such lands, tenements or hereditaments; and his equitable estate or interest therein shall vest in the purchaser in as full and ample a manner as it did in the defendant.

CAP. VIII.

An Act to continue certain Acts therein mentioned.

[Passed May 2, 1860.]

12 Vic., c. 19.

12 Vic., c. 20.

WHEREAS the Act of the twelfth year of Her present Majesty's reign, chapter nineteen, intituled "An Act to regulate the survey of timber and lumber," and also the Act of the twelfth year of Her present Majesty's reign, chapter twenty, intituled "An Act to prevent peddlers travelling and selling within this Island without license," will shortly severally expire, and it is deemed expedient to continue the same:

Continues 12 Vic., c. 19, and 12 Vic., c. 20, each for ten years.

I. Be it therefore enacted, by the Lieutenant Governor, Council, and Assembly, That the said hereinbefore recited Acts shall be, and the same are hereby respectively continued for the space of ten years from the passing hereof, and from thence to the end of the then next session of the General Assembly, and no longer.

CAP. IX.

An Act for preventing frauds by secret bills of sale of personal chattels.

[Passed May 2, 1860.]

WHEREAS frauds are frequently committed upon creditors by secret bills of sale of personal chattels, whereby persons are enabled to keep up the appearance of being possessed of property, and the grantees or holders of such bills of sale

nevertheless have the power of taking possession of the property of such persons, to the exclusion of the rest of their creditors; for remedy thereof: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

I. Every bill of sale of personal chattels, made either before or after the passing of this Act, either absolutely or conditionally, or subject or not subject to any trusts, and whereby the grantee or holder shall have power, with or without notice, and either immediately after the making of such bill of sale, or at some future time, to seize or take possession of any property and effects comprised in and made subject to such bill of sale, and every schedule and inventory which shall be thereto annexed, or therein referred to, may be filed with the Prothonotary of Her Majesty's Supreme Court of Judicature at Charlottetown, or with the deputy Prothonotary of Prince or King's Counties, according to the County in which the grantor of the bill of sale may usually reside; and in case such grantor shall be a nonresident in this Island, or shall have no fixed permanent place of residence, then with the Prothonotary of the Supreme Court in Charlottetown.

Bills of sale to be filed with the Prothonotaries of the Supreme Court.

II. The execution of all such bills of sale as aforesaid which already have been or hereafter shall be made, shall, before filing thereof, be proved on oath before the Prothonotary or deputy Prothonotary, with whom the same shall be filed, by one or more of the subscribing witnesses thereto, or by the personal acknowledgment before him of the grantor or grantors in such bill of sale; which oath the said Prothonotary, or deputy Prothonotary, is hereby empowered to administer, and which acknowledgment or proof of due execution shall be endorsed on the back of each and every such bill of sale or writing so produced and proved, and also signed by the Prothonotary or deputy Prothonotary.

The execution of bills of sale to be proved before filing.

III. The commissioners appointed to take affidavits in the Supreme Court in the several Counties of this Island shall be, and they are hereby empowered to administer an oath to any witness or witnesses who may come before them to prove the due execution of any such bill of sale as aforesaid, or take the personal acknowledgment of the grantor or grantors therein as aforesaid; and they shall thereupon, and upon the back of each bill of sale, certify the proof or acknowledgment so made before them respectively, in manner as set forth in schedules (A) and (B) to this Act; for which service the commissioner shall receive the sum of two shillings and six pence, and no more; and the Prothonotary or deputy Prothonotary, after such proof or acknowledgment before himself, or on receipt of any bill of sale so certified by the commissioner as aforesaid, and on receipt of the fees due to him therefor, shall receive,

The execution of bills of sale may be proved before commissioners for taking affidavits in Supreme Court.

file and enter the same in his office in manner as hereinafter mentioned.

Mode of proving execution in case of death or absence of subscribing witnesses.

IV. In case the witnesses to any such bill of sale shall die before the proof or acknowledgment and filing thereof as aforesaid, or cannot be found, or shall be absent from the Island, then execution of the bill of sale may be proved by affidavit before a Judge of the Supreme Court, to be attached to the bill of sale by any person or persons, to the effect, that the person making the affidavit has seen the grantor or the witness or witnesses, or one of them, write, and is well acquainted with his or their handwriting, and believes the handwriting set to the bill of sale, or subscribed as witness thereto, is of the proper handwriting of the grantor or witness as the case may be, and such affidavit shall be signed by the Judge in the usual manner; and he shall be entitled to receive the fee of one shilling, and no more, for administering the oath and signing the affidavit; and any bill of sale with the affidavit in this clause mentioned annexed shall be filed with the Prothonotary of the Supreme Court in Charlottetown.

No person compelled to attend as a witness to prove execution of a bill of sale until fees tendered.

V. No person shall be compelled to attend before the Prothonotary, deputy Prothonotary, Judge or commissioner, as a witness to prove the due execution of any such bill of sale as aforesaid, unless there shall have been previously tendered to him, or her, a reasonable compensation for his, or her trouble and time, at and after the rate of four pence *per* mile for travelling expenses, for every mile to be travelled in coming to and returning from the place, where proof shall be made of the bill of sale; and in case the witness shall refuse to attend before the proper officer, within six days after such tender as aforesaid, the person or persons requiring the attendance of such witness may make oath before any one of Her Majesty's Justices of the Peace, and therein set forth the necessity of such witness's attendance before the Judge, Prothonotary, deputy Prothonotary or Commissioner, the making of such tender, and the amount thereof, and refusal to attend; and thereupon the witness so refusing to attend as aforesaid shall be forthwith committed by warrant, under the hand and seal of such Justice, to prison, there to remain without bail or mainprize, until he, or she, shall comply with the requisitions of this Act, and shall also pay the reasonable costs and all damages which may have accrued to the grantee or holder of the bill of sale, in consequence of such his or her neglect or refusal to attend and give evidence before the Judge, Prothonotary, deputy Prothonotary or commissioner as aforesaid.

The Prothonotary to keep a book contain-

VI. The Prothonotary and each of the deputy Prothonotaries of the said Supreme Court respectively shall cause every bill of sale, and every such schedule and inventory as afore-

said filed in his office under the provisions of this Act, to be numbered, and shall keep a book or books in his said office, in which he shall cause to be fairly entered an alphabetical list of every such bill of sale, containing therein the name, description and addition of the person making or giving the same, and also the person to whom or in whose favor the same shall be given, together with the number and dates of the execution and filing of the same, and the sum for which the same has been given, and the time or times (if any) when the same is thereby made payable, according to the form contained in schedule (C) to this Act; which said book or books, and every bill of sale filed in the said office, may be searched and viewed by all persons at all reasonable times, paying the officer for every search the sum of one shilling, and no more.

ing particulars
of each bill of
sale.

VII. Each of the said officers shall be entitled to receive, for his trouble in filing and entering every such bill of sale, the sum of one shilling, and no more; and for taking proof or acknowledgment, and certifying the same in manner as aforesaid, the sum of two shillings and six pence, and no more.

Officers' fees.

VIII. Any person shall be entitled to have an office copy, or an extract of every bill of sale which shall be filed as aforesaid, upon paying for the same at the like rate, as for office copies of judgments or other documents in the Supreme Court of Judicature.

Office copies or
extracts to be
given on pay-
ing as for copies
of judgments.

IX. It shall be lawful for any Judge of the said Supreme Court of Judicature to order a memorandum of satisfaction to be written upon any bill of sale as aforesaid, if it shall appear to him that the debt (if any) for which such bill of sale is given as security shall have been satisfied or discharged; and the Judge's fee for such order shall be one shilling, and no more.

Satisfaction
may be entered.

X. From and after the passing of this Act, every such bill of sale of personal chattels as hereinbefore mentioned, which shall have been duly filed in the office of the Prothonotary or deputy Prothonotary as aforesaid, shall take precedence and have priority over all other bills of sale of the same chattels, whether prior in point of date or otherwise, which shall not have been previously filed; and every such last mentioned bill of sale, not being filed as aforesaid, shall, as against all other bills of sale given by the same party of the same property, or a part thereof, and duly filed, and also as against all Sheriff's officers and other persons seizing any property or effects comprised in such bill of sale, in the execution of any process of any Court of law or equity authorizing the seizure of the goods of the person by whom or of whose goods such bill of sale shall have been made, and against every person on whose

Bill of sale
duly filed to
have priority
over all other
bills of sale.

behalf such process shall have been issued, be null and void to all intents and purposes whatsoever, so far as regards the property in or right to the possession of any personal chattels comprised in such bill of sale, which at or after the time of the execution by the grantor of the bill of sale, so duly filed under this Act, or of executing such process (as the case may be) shall be in the possession, or apparent possession of the person making such bill of sale: provided always, nevertheless, that all bills of sale, heretofore or hereafter to be duly made and executed, shall in all cases as between the immediate parties thereto, and as against the grantor therein named, and his heirs, executors and administrators, be deemed to be valid and binding, notwithstanding the same shall not have been filed according to the provision of this Act, unless there shall be therein contained a condition or covenant to the contrary.

Any person
filing bill of
sale may make
a copy thereof.

XI. Any person filing a bill of sale under this Act may make a copy thereof for his or her own use or otherwise, and require the Prothonotary or deputy Prothonotary with whom the original may be filed, to compare the same with the copy, and after comparison to certify on the said copy that the same is a true copy of such original, and also to certify to the filing of such original bill of sale.

Bills of sale
executed be-
fore passing of
this Act not to
be affected
thereby.

XII. Bills of sale executed before the passing of this Act, if duly filed as aforesaid, under the provisions hereinbefore contained, within six months after the passing of this Act, shall not be affected or postponed by the filing within that period of any bill of sale of a later date, any thing herein contained to the contrary thereof notwithstanding.

A certified copy
of a filed bill
of sale to be
evidence in all
Courts.

XIII. A certified copy of any bill of sale filed under this Act, certified under the seal of the Supreme Court, and the hand of the officer with whom the original bill of sale shall be deposited, together with a certificate of the filing given by the same officer, shall be received as evidence of the contents of such bill of sale, and of the filing thereof, in all Courts in this Island, wherein it shall become necessary to give the same in evidence.

Officer's fees for
making a copy,
&c.

XIV. The officer's fees for making a copy shall be six pence *per folio* of one hundred words: for comparing a copy produced and required to be certified, the sum of two shillings; and two shillings and three pence for the certificate and seal, and no more.

Interpretation
of terms.

XV. In construing this Act, the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction: the expression "bill of sale" shall include bills of sale, assignments, transfers, declarations of trust

without transfer, and other assurances of personal chattels, and also powers of attorney, authorities and licenses to take possession of personal chattels as security for any debt; but shall not include the following documents, that is to say: transfers or assignments of any registered ship or vessel, or any share thereof, transfers of goods in the ordinary course of business of any trade.

XVI. The expression "personal chattels," shall mean horses, cattle, animals, goods, furniture, fixtures, and other articles capable of complete transfer by delivery; and shall not include chattel-interest in real estate, nor shares or interest in government securities, or in the capital or property of any incorporation or joint stock company or other *choses in action*.

Construction of
personal chat-
tels.

XVII. Personal chattels shall be deemed to be in the apparent possession of the person making or giving the Bill of Sale, so long as they shall remain or be in or upon any house, mill, warehouse, building, works, yard, land, farm or other premises occupied by him, or so long as they shall be used or enjoyed by him in any place whatsoever, notwithstanding that formal possession thereof may have been taken by or given to any other person.

Apparent pos-
session of chat-
tels defined.

SCHEDULES to which this Act refers.

SCHEDULE (A.)

On the _____ day of _____ personally appeared before me, *A. B.*, of _____ and being sworn, testified, that he is a subscribing witness to the within deed or writing, and that he was present and did see the same duly executed by the grantor (or assignor, as the case may be) therein named.

Oath of sub-
scribing wit-
ness.

E. F.,

Prothonotary, Deputy Prothonotary, or
Commissioner in _____ County for
taking affidavits in the Supreme Court.

SCHEDULE (B.)

Form of certificate of acknowledgment.

On the _____ day of _____ personally appeared before me, *A. B.*, of _____ and acknowledged that he did freely

Certificate of
acknowledg-
ment of gran-
tor.

and voluntarily execute the within written deed or writing, to and for the uses and purposes therein mentioned.

E. F.,

Prothonotary, Deputy Prothonotary, or
Commissioner in _____ County for
taking affidavits in the Supreme Court.

SCHEDULE (C.)

Name, &c., of the person making or giving the Bill of Sale, or of the person divested of property.	Whether Bill of Sale, assignment, or what other assurance, and whether absolute or conditional, and number.	Date of Execution.	Date of filing.	Sum for which made or given.	When and how payable.

CAP. X.

An Act to provide for the revising and reprinting of the laws of this Island.

Amended by
24 Vic. c. 3.

[Passed May 2, 1860.]

WHEREAS the Statutes of the General Assembly of this Island require to be revised and reprinted :

IA. Governor, &c., to appoint three Commissioners to carry this Act into effect.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That for the due execution thereof it shall and may be lawful for the Lieutenant Governor for the time being, by and with the advice and consent of Her Majesty's Executive Council, to nominate and appoint three fit and proper persons to be Commissioners to carry this Act into effect; and in case of the death, resignation or absence from this Island of any of the said Commissioners, the Lieutenant Governor is hereby authorized to nominate and appoint,

as often as it may become necessary, a fit and proper person in his stead, and the person or persons so appointed shall have the like powers and authority as are conferred by this Act upon the Commissioners hereinbefore named.

II. It shall be the duty of the said Commissioners, and they are hereby directed to examine into the several Statutes of the General Assembly of this Island, and to prepare a report thereupon, to be laid before the Legislature at its next sitting, wherein shall be stated and explained all such Acts or parts of Acts as require amendment, alteration, or which may with convenience be consolidated.

Duty of Commissioners to report upon laws.

III. The said Commissioners appointed by virtue of this Act shall have full power and authority, and they are hereby directed to agree and contract with the person or persons who will engage, under good and sufficient security, to print the said Statutes of the General Assembly on the best and lowest terms, having previously given three months' notice* for tenders for such contracts in the *Royal Gazette* newspaper.

Duty and power of Commissioners as to reprinting laws.

IV. The said Commissioners are hereby authorized and required to superintend the printing of the said Statutes as aforesaid, and shall have full power and authority to cause the same to be done and performed in such way and manner as to the said Commissioners may seem most desirable; and the said Commissioners are hereby authorized to leave out of the several volumes of the Laws to be printed under the provisions of this Act, all Acts whatsoever, which have been repealed, or have expired, as well as all Acts, the provisions of which have been executed, whether the title to lands, tenements, or hereditaments may have been derived under the provisions of any such Acts or not: provided always, and it shall be the duty of the said Commissioners, besides inserting the title of all such Acts in their proper order, in all cases where it shall appear to the said Commissioners, that the provisions of any such Acts may affect the titles to lands, tenements or hereditaments, to signify the same by way of marginal note thereto.

Further duty and power of Commissioners in reprinting laws.

V. All and every Act and Acts of the General Assembly of the said Island heretofore published by the authority of the Government of this Island, that is to say, all the Acts contained in the volumes of the laws printed at Charlottetown by the government printer in the year one thousand eight hundred and fifty-two, printed under the direction of the Commissioners appointed by virtue of the Act of the eleventh year of the reign of Her present Majesty, chapter thirty-two, and all Acts passed since the year one thousand eight hundred and fifty-one, down to the session of the year one thousand eight

Certain Acts not published in full in new edition of laws to be nevertheless legal evidence.

* Altered by 24 Vic. c. 3, to three weeks' notice.

hundred and sixty-one, inclusive, and printed annually by the Queen's printer, at Charlottetown, which shall not be printed in full in the new edition of the laws, and by which the title to lands, tenements or hereditaments may be affected, shall and they are hereby declared to be legal evidence in all Courts of law and equity, or Courts of record in this Island, in all cases where the titles to lands, tenements or hereditaments derived or supposed to be derived under any of their provisions shall be in question or dispute, or where the same by reason of any such Act or Acts may in any manner be affected.

Duty of Commissioners in depositing certain laws in public offices.

VI. For the purpose of ensuring the preservation of the laws heretofore published, it shall be the duty of the said Commissioners, and they are hereby required, within six months* from the passing of this Act, to deposit in the office of the Registrar of deeds, and the several offices of the Prothonotary of the Supreme Court, and of his deputies in King's and Prince Counties, a full copy of the laws of this Island heretofore published as aforesaid, being the said volumes printed in the year one thousand eight hundred and fifty-two, and the several Acts passed since the year one thousand eight hundred and fifty-one to the session of one thousand eight hundred and sixty-one, inclusive, and published annually by the Queen's printer, as hereinbefore mentioned; which Acts shall be kept in the said offices as records, and for the purposes of reference in all time to come, so far as relates to such of the said Acts as shall not be published in full in the said new edition of the laws to be compiled under the direction of the said Commissioners, and by which Acts the titles to lands, tenements or hereditaments may be affected, which said several copies shall contain a memorandum to the following effect, subscribed with the names of the said Commissioners for the time being in their proper handwriting, that is to say:

Memorandum to be subscribed thereon by Commissioners.

Prince Edward Island.

Filed in the office of _____ in _____ County, this _____ day of _____ 18 _____ by virtue of an Act passed in the twenty-third year of the reign of her present Majesty, intituled (here insert the title of this Act).

VII. And it shall be the duty of the said registrar and prothonotary, and their respective deputies and clerks, within office hours, at all times, to exhibit the said Acts to any person or persons, who shall or may require access to the same.

Commissioners may sue for every breach of contract, &c.

VIII. The said commissioners for the time being are hereby authorized, in their joint names to sue for and recover the penalty or penalties contained in any agreement entered into by them in pursuance of this Act, if the contract so made

* Altered by 24 Vic. cap. 3 to eight months from the time of the passing of that Act.

shall not be faithfully performed and executed ; and the said Commissioners are hereby authorized to agree and contract with some other person or persons for the completion of such printing ; the penalty so to be recovered to be paid into Her Majesty's treasury, to and for, the use of Her Majesty's Government.

(Section IX. repealed by 24 Vic., c. 3.)

X. The Lieutenant Governor, by and with the advice of Her Majesty's Council for this Island, is hereby authorized at any time after the first day of September, one thousand eight hundred and sixty-one, to draw warrants on the Treasurer of this Island, from time to time, for such sums as may be required by the said Commissioners for the purpose of fulfilling, on their part, the said contract so to be made and entered into as aforesaid.

Lt. Governor, &c., to draw warrants for amount of contract for printing, &c., after 1st Sept., 1861.

CAP. XI.

An Act to allow verdicts on trials by jury in civil causes in this Island to be returned, although the jury may not be unanimous, and to make other amendments to the jury law.

Repealed by 24 Vic., c. 10.

[Passed May 2, 1860.]

CAP. XII.

An Act to alter and amend the laws regulating the sale by license of spirituous liquors.

See 19 Vic., c. 2, 20 Vic., c. 4, 23 Vic., c. 13, & 25 Vic., c. 6.

[Passed May 2, 1860.]

WHEREAS it is deemed desirable to alter the mode of obtaining tavern licenses, by giving to the people themselves a more direct and efficient control in the granting of such licenses, than is now enjoyed by them :

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, no license shall be granted for keeping a tavern or inn within the bounds of any school district now established, or hereafter to be established, within this Island, the city of Charlottetown excepted, on any other than the following conditions, which shall be inserted in such license, that is to say : that the person to whom such license shall be granted shall keep, at all times during the continuance of such license, in his or her tavern or inn, at least three good and sufficient beds and bedding for the accommodation of travellers, with good stalled stabling, and necessary and wholesome provender for six hor-

Conditions on which tavern licenses are to be granted within any school district, and which shall be inserted therein, (city of Charlottetown excepted.)

ses ; and such person shall at all times have and keep in good repair a good and sufficient shed, well roofed and enclosed, with suitable mangers or provender boxes therein, and having gates and bars for the exclusion of pigs, sheep, cattle and other animals, and for the free ingress and egress of carts, sleighs and other vehicles belonging to travellers: provided always, that before any such license shall be granted, the person or persons applying for the same shall produce a certificate from two neighboring Justices of the Peace in the form to this Act annexed, marked (D), verifying that he, she or they hath, or have, in all respects, the accommodations hereinbefore required ; and shall take and subscribe an oath in the form prescribed in the schedule hereto annexed, marked (A) ; and shall also enter into a bond or obligation to Her Majesty, her heirs and successors, whereby the person or persons to be licensed shall become bound with one or more sufficient surety or sureties in the sum of fifteen pounds, with condition that he, she or they shall at all times keep and maintain good order in the house of entertainment for which such license is required; and such bond and condition shall be according to the form marked (B) in the schedule to this Act annexed ; and all persons so applying for such tavern license as aforesaid, shall, before obtaining such license, produce to the Colonial Secretary a certificate, according to the form marked (C)* in the schedule to this Act annexed, attesting to his or her moral character, and to the necessity for an inn or house of public accommodation, signed by at least two of the neighboring magistrates, and a majority of the householders resident in and entitled to vote for trustees of schools for the school district, within which the proposed inn or house of accommodation shall be situate.

Conditions on which tavern licenses, (Charlottetown excepted) and not within any school district, are to be granted.

II. In all cases where application may be made to the Government for a license to keep a tavern in any part of this Island, the city of Charlottetown excepted, not situate within the bounds of any school district for the time being established in this Island, then, and in every such case, before any such license shall be granted, and which when granted shall contain the same conditions in all respects, as are prescribed for licenses granted under the first section of this Act, the party applying for the same, besides producing a certificate of two neighboring Justices of the Peace, in the form, and certifying as hereinbefore is set forth, and taking and subscribing the oath, and entering into the bond or obligation in the respective forms, and as to such bond or obligation with the like penalty and condition, and in the way and manner in all respects as are hereinbefore prescribed and required in the case of applications under the said first section of this Act, shall produce to the Colonial Secretary a certifi-

* See 25 Vic., cap. 5, sec. 12.

cate in the form marked (C) in the schedule hereto annexed, attesting to his or her moral character, and to the necessity of an inn or house of public accommodation, signed by two of the neighboring magistrates, and at least twelve of his or her neighbors, being householders.

III. The second section of the Act made and passed in the nineteenth year of the reign of Her present Majesty Queen Victoria, intituled "An Act to consolidate and amend the Acts regulating the sale by license of spirituous liquors," and the schedules therein referred to, shall be, and the same are hereby repealed.

Repeals second
section of 19th
Vic., c. 2.

IV. From and after the passing of this Act, the rate or price to be paid to Her Majesty's Government of this Island for licenses for the retail of fermented or distilled spirituous liquors, shall be as follows, that is to say: by persons keeping a tavern or inn in any part of this Island, the city of Charlottetown excepted, having the accommodations hereinbefore required, the sum of three pounds ten shillings; and by persons keeping a shop or store, but who shall require a license for the retail of spirituous liquors in quantities not less than one pint, the sum of seven pounds ten shillings, any thing in the fifth section of the said recited Act of the nineteenth year of the reign of Her present Majesty, chapter two, to the contrary thereof in anywise notwithstanding.

License duty
for tavern, city
of Charlottetown
excepted.

V. If the husband, wife, parent, child, brother or sister, master or guardian of any person addicted to the intemperate use of intoxicating liquors, or any Justice of the Peace, or minister of the gospel, residing within the County wherein such intemperate person resides, shall give notice in writing to any person engaged in the sale of intoxicating liquors, that such person is addicted to the intemperate use of intoxicating liquors, it shall not thereafter be lawful, under any pretence whatsoever, for the person receiving such notice by himself, his servants or agents, directly or indirectly, to sell or give any intoxicating liquors to such intemperate person, to be used on the premises, or in any quantity less than five gallons, to be delivered and removed from the premises at one time; and any person knowingly violating the provisions of this section, upon proof of the truth of the statement contained in such notice, shall be liable to a fine of not more than five pounds for a first offence; and a fine of not less than five pounds, nor more than ten pounds, and imprisonment for a period of not more than thirty days, as the Court or Justice may direct, for a second or subsequent offence.

Tavern keeper
not to sell
liquors to per-
son of intem-
perate habits.

VI. All persons having, before the passing hereof, obtained license for the retail of spirituous liquors, may continue to retail the same, subject to the provisions and restrictions in

Licenses grant-
ed before pass-
ing of this Act
to continue sub-

ject to provisions of 19
Vic., c. 2.

the said recited Act of the nineteenth of Victoria, chapter two, and the Acts in amendment thereof, until the expiration of the term for which such license shall have been granted.

SCHEDULES referred to by this Act.

SCHEDULE (A.)

FORM OF OATH.

Form of oath
to be taken by
applicant for
tavern license.

I, *A. B.*, of _____ in the County of _____ (yeoman), do swear, that the stable and shed accommodations therein this day viewed and examined by *E. F.* and *G. H.*, Esquires, two of Her Majesty's Justices of the Peace, are now complete and in my actual possession, and are intended so to be at all times during the continuance of my intended license, appropriated for the use of such horses and beasts of burden as may be required to be stabled therein by persons who shall put up or stop at my said intended tavern, and are not intended, and shall not be used by me, or any other person, for any other purpose, to the exclusion or denial of any such horses or beasts of burden; and the stable is within one hundred yards, and the said shed within thirty yards from said tavern; and I do further swear, that the beds and bedding now exhibited to them the said *E. F.* and *G. H.*, are according to the inventory hereunto annexed, and are for the use of travellers who may stop at this my intended tavern, and are lawfully in my possession, and have not been hired or borrowed for the temporary purpose of enabling me to obtain a license; and that I will at all times use such license for the sole purpose of keeping a public tavern or inn, wherein I will entertain such proper guests as may offer, not being more than I can receive; and I will make only fair and reasonable charges against them for my services.

So help me God.

SCHEDULE (B.)

FORM OF BOND.

Form of bond
to be given by
tavern keeper.

Know all men by these presents, that we _____ are held and firmly bound unto our sovereign Lady the Queen, her heirs and successors, in the sum of fifteen pounds, lawful current money of this Island, for which payment well and truly to be made, we jointly and severally bind ourselves, our and

each of our heirs, executors and administrators, firmly by these presents, sealed with our seals, and dated this day of in the year of our Lord one thousand eight hundred and

Whereas the above bounden is about to apply for a license for the sale by retail of spirituous liquors in the tavern or house of public entertainment kept by the said at in the County of

Now, the condition of the above written obligation is such, that if the above bounden shall, on having obtained a license as aforesaid, in no way or manner at any time offend against or violate, but at all times well and sufficiently comply with the regulations or provisions made by law for the sale by license of spirituous liquors, and shall keep and maintain good order in the tavern or house of entertainment aforesaid, then, and in such case, the above written bond or obligation to be void, otherwise to be and remain in full force and virtue.

Signed, sealed and delivered in the }
presence of }

SCHEDULE (C.)

CERTIFICATE OF MAGISTRATES AND HOUSEHOLDERS.

We, the undersigned, do hereby certify that a tavern or inn is required and necessary at in the township of (or town as the case may be) for the accommodation of the public, and that (name of applicant) being the applicant for a license to keep the same, is of good moral character.

Certificate of
magistrates
and household-
ers.

SCHEDULE (D.)

CERTIFICATE OF TWO JUSTICES AS TO ACCOMMODATION.

We, the undersigned, having examined the premises of who is an applicant for a tavern license, do certify, that the said has the necessary accommodations to entitle him to receive the same.

Certificate that
applicant has
necessary ac-
commodation.

CAP. XIII.

An Act in further amendment of the laws regulating the sale by license of spirituous liquors.

[Passed May 2, 1860.]

WHEREAS by an Act passed in this present session of the General Assembly, the second section of the Act Preamble.

made and passed in the nineteenth year of the reign of Her present Majesty Queen Victoria, intituled "An Act to consolidate and amend the Acts regulating the sale by license of spirituous liquors," is repealed: and whereas the city of Charlottetown ought to have been excepted from the consequences of such repeal:

City Council
may continue
to grant licenses
according
to the second
section of 19
Vic., c. 3.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that the City Council of the City of Charlottetown shall and may continue to grant licenses in accordance with the provisions of the said hereinbefore recited Act, that the said second section, and all other parts of the said Act, so far as the said city is concerned, shall be deemed in full force and virtue.

CAP. XIV.

Repealed by
24 Vic., c. 36.

An Act to alter and amend the laws relating to education.

[Passed May 2d, 1860.]

CAP. XV.

18 Vic., c. 12.
Repealed by 24
Vic., c. 36.

An Act to alter the Normal School Act.

[Passed May 2, 1860.]

CAP. XVI.

Amended by
25 Vic., c. 6.

An Act relating to the recovery of small debts, and to repeal certain Acts therein mentioned.

[Passed May 2, 1860.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:—

Recited Acts
repealed.

I. From and after the passing hereof, the several Acts hereinafter mentioned shall be, and the same are hereby repealed, that is to say: an Act passed in the second year of the reign of his late Majesty King William the fourth, chapter one; an Act passed in the same year of the same reign, chapter five; an Act passed in the third year of the same reign, chapter eleven; an Act passed in the sixth year of the same reign, chapter four; an Act passed in the seventh year of the same reign, chapter eleven; an Act passed in the third year of the reign of Her present Majesty Queen Victoria, chapter eighteen; an Act passed in the seventh year of the reign of Her present Majesty, chapter two; an Act passed in the eighth

year of the reign of her present Majesty, chapter seven; an Act made and passed in the ninth year of the reign of her present Majesty, chapter seven; an Act passed in the eleventh year of the reign of her present Majesty, chapter thirty; also, an Act passed in the fifteenth year of the reign of her present Majesty, chapter eight, intituled "An Act relating to the recovery of small debts, and to repeal certain Acts therein mentioned," except certain parts thereof hereinafter excepted; and an Act passed in the sixteenth year of the reign of her present Majesty, chapter one, be, and the same are hereby severally and respectively repealed, save for the purposes hereinafter in the forty-second section of this Act mentioned.

II. When and so soon as this Act shall go into operation, it shall and may be lawful for the Lieutenant Governor for the time being, by and with the advice and consent of Her Majesty's Executive Council of this Island, to constitute and appoint, within each of the Counties of this Island, not more than seven Courts, for the recovery of small debts, and to declare, by and with the consent aforesaid, where and in what part of each County the said Courts shall respectively be holden, and also on what days of each month the said Courts shall respectively hold their sittings (so as the several Courts in each County may sit on different days), and to appoint to each Court three Judges or Commissioners to adjudicate in each Court, each Court to have jurisdiction only within the County in which it is held, except in the cases hereinafter mentioned: provided always, that if, by reason of sickness, or other unavoidable cause, not more than two Commissioners shall be present on any day appointed for the hearing of cases in any of the said Courts of Commissioners, it shall be the duty of the two Commissioners present, and they are hereby required to call in the aid of a Commissioner of any other of the Courts appointed under this Act, or of any Justice of the Peace for the County wherein such Court shall be held, and the two Commissioners present, together with such other Commissioner or Justice of the Peace as aforesaid, shall have the power fully to adjudicate upon all cases to be heard at such sitting; and the proportion of all fees to which the Commissioner so absent as aforesaid, if presiding, would be entitled, shall be paid to the Justice of the Peace or Commissioner so acting in his stead: provided also, that where any two of the Commissioners of any such Court shall be absent, by reason of any such cause as aforesaid, it shall and may be lawful for the Commissioner present to adjourn the Court, or for the Clerk of the Court so to do, where all the Commissioners shall be absent for any such cause as aforesaid.

Not more than seven small debt Courts to be constituted in each County.

III. In addition to the said Courts, it shall be lawful for

One additional Court to be constituted for Queen's County

the Lieutenant Governor of this Island for the time being, by and with the consent and advice of Her Majesty's Executive Council thereof, to constitute one other Court for the recovery of small debts in Queen's County, to hold its sittings in Charlottetown, and to appoint to such lastmentioned Court five Commissioners, to adjudicate therein, any three of whom shall be a quorum; such Court to have jurisdiction within Queen's County only, except in cases hereinafter mentioned.

Commissioner to take oath before executing the duties of office.

IV. Each Commissioner of small debts to be appointed under the authority of this Act, shall, before he shall exercise any of the duties belonging to his office, take the oath following before one of the Judges of the Supreme Court, or a Commissioner for taking affidavits therein; and it shall be the duty of the Judge or Commissioner taking any such affidavit, to cause the same to be filed in the office of the Prothonotary of the Supreme Court; or if in King's or Prince County, in the office of the deputy Prothonotary thereof, and shall also grant a certificate to such Commissioner of his having been sworn, which certificate shall be produced, recorded, and filed in the Court to which said Commissioner is appointed, before he will be allowed to adjudicate therein:

Form of oath.

"I, *A. B.*, do swear, that I will, to the best of my judgment, faithfully discharge the duties of a Commissioner of small debts, for the time I may be continued in office, according to law and equity, without fear, favor or affection.

"So help me God."

Sittings of the Court when and where to be held, &c.

V. Each of the said Courts shall hold its sittings at the place where the Lieutenant Governor, by and with the advice and consent of Her Majesty's Executive Council, shall appoint the same to be held as aforesaid (except for the hearing of cases of summary *capias* hereinafter mentioned) once in every calendar month, on such day as shall in manner hereinbefore set forth, be appointed by the Lieutenant Governor and Council for that purpose, and shall sit for as many days after each day of meeting in each month respectively, by adjournment, as may be necessary, to judge and finally determine the actions therein pending; and at each and every of such monthly sittings in each and every year shall and may try all actions whereof they may have jurisdiction under this Act, wherein the debt or damage claimed does not exceed the sum of twenty pounds, exclusive of any interest that may have become due on the principal debt, not exceeding six years' interest.

Commissioners to appoint Clerks for their Courts.

VI. Each Court of Commissioners to be constituted under this Act is hereby authorized and required to appoint a Clerk resident at or near to the place where the Court shall hold its sittings, to assist in the management of the business thereof,

for whose acts the Commissioners making the appointment shall at all times be responsible; which clerk, when duly appointed and sworn into office, shall have full power and authority, under the directions of the said Court, to issue processes, administer oaths, and execute papers of appeal, recognizances, and such other papers as may be required to carry out the intentions of this Act in all matters appertaining to the Court to which he may have been appointed; and for his services he shall be allowed such fees as are set forth in the table of fees to this Act annexed; and each clerk so appointed shall and is hereby required to keep a book or books, wherein he shall enter and record the names of the parties plaintiff and defendant in each suit before the said Court, and the progress of each case from time to time, and the proceedings taken therein from its commencement to its final determination, as also the several orders and judgments, and executions that the said Court shall or may make thereon in pursuance of this Act, and of all other proceedings of the said Court, so that a complete record thereof shall be kept; and the said clerk shall also take charge of and shall keep an account in the said book or books of all court fees or fines, payable or paid into Court, and fees paid or payable to bailiffs and other officers of the said Court, and of all moneys paid into or out of Court; and each and every clerk as aforesaid, neglecting to keep such book or books, shall forfeit a sum not exceeding twenty pounds to the person who shall be thereby aggrieved; the same to be recovered by action of debt in Her Majesty's Supreme Court of Judicature.

Power of
Clerk.

Clerk's fees.

Penalty on
clerk neglect-
ing to keep
books.

VII. The said Courts shall have jurisdiction in matters of debt and trover for the recovery of sums not exceeding twenty pounds, exclusive of any interest that may have become due on the principal debt, not exceeding six years' interest; but not in any action brought for the recovery of any sum arising upon any contract or case where the title to real estate or boundary lines must be adjudicated upon, nor to any sum won by means of any wager or gaming, nor to any penalty incurred by any Act of this Island, unless so directed by any such Act, nor to any debt whereof there has not been a contract, undertaking, or promise to pay within six years before the commencement of the action; if, in the lastmentioned case, the defendant shall plead the same: provided always, that if, at the period when a right of action shall accrue to any person by virtue of this Act, either of the parties to such action be absent in any of the neighboring Provinces, or in any other parts beyond the seas, or shall be a married woman, or a person of unsound mind, then each and every person entitled to bring any such action shall and may nevertheless commence the same at any period within twelve months next after the

Jurisdiction
of Court.

Saves the right
in certain cases
where disabili-
ty exists.

termination or removal of any such disability as aforesaid: provided further, that where the accounts or dealings between any such parties shall have exceeded twenty pounds, no jurisdiction therein shall be allowed to said Courts, unless a settlement of such accounts or dealings shall have taken place, and a balance, not exceeding twenty pounds, have been struck and acknowledged under the hand of the party to be charged therewith.

No action for rent to be commenced in such Courts, except in certain cases

VIII. And whereas it is desirable and just, that questions between landlord and tenant on contracts for the payment of rent or otherwise, should, as much as possible, be excluded from the jurisdiction of the Courts to be constituted under this Act, wherein neither the landlord nor the tenant can have the advantage of having his cause submitted to a jury of the country: Be it therefore enacted, that no action or suit, except the same commences by *capias* as hereinafter mentioned, for any sum for rent due upon any lease, or demise, or agreement for a lease or demise of any lands, houses, tenements, or hereditaments in this Island, whereof the area shall exceed one acre of land, whether in writing or by parol, or for rent due as between landlord and tenant, in respect of the occupation of any such lands, houses, tenements, or hereditaments, shall be commenced in any Court to be constituted under this Act, unless the sum or amount demanded cannot in any way be made the subject of a distress, or is recoverable thereby, or unless at the time of the commencement of such action, or at some time within seven days previous thereto, there shall not be or have been upon the premises in respect to which the rent or sum is claimed or has accrued due, sufficient distress to countervail the rent or sum so claimed; or if more than half a year's rent be claimed, a sufficient distress to countervail half a year's arrears of the rent or sum so claimed; nor unless the person or persons desiring to sue out a summons for such rent or sum claimed, or his or their agent shall, previously thereto, make and subscribe an affidavit in the form prescribed in the schedule to this Act annexed, marked (A), in the presence of and before the Clerk of the Court out of which the summons may issue, in addition to any other affidavit which may be otherwise required by this Act, and it shall be incumbent upon the plaintiff or plaintiffs in any such lastmentioned suits, upon the trial thereof, to give evidence of the truth and correctness of such affidavit; and if it shall appear, that the material averments contained therein are incorrect or untrue, it shall be lawful for the Court before which the same shall be heard, and it is hereby required, to give judgment of nonsuit against the plaintiff or plaintiffs, with costs to the defendant, sustained by reason thereof.

Affidavit to be taken by person suing for rent.

IX. In all actions brought before any Court as aforesaid,

the proceedings shall commence, (except as hereinafter mentioned), by summons according to the form in the schedule to this Act annexed, marked (B), in which shall be stated separately the original debt, as the immediate cause of action, and the amount of interest (if any) sought to be recovered therewith, under the hand and seal of the clerk, which summons shall be served by any constable or bailiff of the Court out of which it issues, appointed as hereinafter mentioned, eight days before the day named for trial, (exclusive of the day of service); and such service shall be, by delivering the same to the defendant in person, or in case he cannot be found, then to the wife, child, or other person belonging to him at his known place of abode (provided such child or other person be sixteen years old or upwards), and at the time of delivering the said summons shall inform him or her to whom it shall be delivered, of the meaning or purport thereof; and if the defendant be an inmate or lodger, and cannot be found, or shall endeavor to evade service, the service of the summons shall be valid by delivering it to any person of discretion as aforesaid, at the house or place where the defendant lodges or resides, and at the same time telling him or her the meaning or purport thereof.

Actions, how commenced.

X. If any person residing in this Island shall be served with a subpoena, in the form in the schedule to this Act annexed, marked (C), under the hand and seal of the clerk of any Court constituted under the authority of this Act, requiring him at a certain time therein mentioned, to give evidence between the parties in any suit in any of the said Courts, and at the same time shall have his mileage tendered to him, and shall thereafter neglect or refuse to appear as in such subpoena required, and due proof having been made of the service thereof, and of such tender of mileage, and no cause of absence having been shewn to the satisfaction of the Court, and oath having been made before it by the party at whose instance the said subpoena issued, that the person served therewith was a material witness in the suit, and it being also proved, to the satisfaction of the Court, that damage had been sustained from the nonattendance of such witness, then it shall and may be lawful for the said Court to give judgment against such person so neglecting or refusing to attend as aforesaid, for the amount of damages so sustained, not exceeding twenty pounds, together with costs; and to order execution against the said offender, as in other cases after judgment, as hereinafter directed; which damages, when recovered, shall be paid over to the party aggrieved by the said neglect or refusal.

Attendance of witnesses, how secured.

Judgment to be given against offender.

XI. For the better discovery of the truth, and for the more solemn determination of all matters and cases pending in any Court constituted under this Act, on the hearing or trial of

Parties to the suit

and other persons to be examined on oath or affirmation.

any action, or on any other proceeding under this Act, in any such Court, the parties thereto, and all other persons may be examined either by or on behalf of the plaintiff, or by or on behalf of the defendant, upon oath, (or solemn affirmation in those cases in which persons are, by law, allowed to make affirmation, instead of taking an oath) to be administered by the Court, or by the proper officer thereof.

Hearing of suits to be deferred until the next sitting of Court on application therefor by either party.

XII. If any Court constituted under this Act shall be applied to, by or on behalf of either party in a suit pending in such Court, to defer the same, on the grounds that he is not ready or prepared for trial, or requires further time therefor, to procure the attendance of witnesses, and the party so applying shall support the same by affidavit of the truth thereof, and that such application is not made for the purpose of defeating the ends of justice, then it shall be the duty of such Court, and it is hereby required thereupon to defer the hearing of the suit, until the next sitting of the Court for the trial of suits of the same description: provided always, that it shall not be compulsory upon such Court to make more than one postponement of the hearing of such suit.

Privilege not to exempt persons from being proceeded against.

XIII. No privilege, or pretended privilege, shall be allowed to exempt any person whomsoever from being proceeded against by virtue of this Act for the recovery of any debt or demand due from him to any other person or persons, save and except privileges of parliament and of members of the bar during the sitting of the Supreme Court.

Clerk of Court may receive confession of debt, &c.

XIV. After the issuing of any summons, the clerk issuing the same shall have full power and authority to receive and take from the defendant a confession of the debt or demand for which he may have been sued, at any time before the cause shall be called on in Court for trial; which said confession, entered in writing and signed by the clerk, shall be conclusive against the said defendant and be made a judgment of the said Court; in which case, it shall be the duty of the defendant in such suit to give notice thereof forthwith to the plaintiff.

Defendant not appearing, Court may hear cause on part of plaintiff.

XV. If any defendant duly summoned as aforesaid do not appear before the Court at the time and place required by the said summons, and no just cause for such nonappearance be shewn to the satisfaction of the said Court, and if the plaintiff shall duly appear, then it shall and may be lawful for the said Court, after proof of the due service of the said summons, upon oath of the constable who shall have served the same, to hear the cause on the part of the plaintiff only, and to make such order or judgment, together with costs, as to it shall seem most agreeable to law, equity and good conscience, and as if the said defendant had duly appeared: provided al-

ways, that if, within six days after such judgment shall have been given as aforesaid, the defendant shall make special affidavit before the clerk, setting forth, that he was precluded from attending said Court at the return of said summons by sickness or other good cause, specified to the satisfaction of any two of the Commissioners who tried the cause, and shall cause to be given a recognizance in the form prescribed in the schedule to this Act annexed, marked number (1), then it shall be the duty of such Commissioners to grant to the defendant a rehearing of such cause at the next sitting of the said Court.

Proviso.

XVI. If upon the day of the return of any summons, the plaintiff therein named shall not appear, without some just cause to be allowed by the Court, or, upon hearing, shall not make proof of his demand to the satisfaction of the Court, but shall become nonsuit, it shall and may be lawful for the said Court to award to the defendant and his witnesses, costs and travelling expenses, as allowed by this Act, and to issue execution against the said plaintiff for the recovery of the same in the manner hereinafter prescribed: provided, nevertheless, that in all cases of adjourned hearings, when judgment shall be ultimately given against the plaintiff, the defendant shall be entitled to receive the same costs for travelling, and for each attendance, if more than one, as are by this Act allowed to witnesses.

Plaintiff not appearing, &c. or becoming nonsuit, Court may award costs, &c., to defendant and his witnesses.

XVII. It shall be lawful for the said Courts to order and direct, that the costs and charges of either party to a suit shall be paid by the other, or apportioned between them, as they in their discretion shall deem just and equitable: provided always, that an appeal from such decision shall be allowed to either party, in manner hereinafter provided by the twenty-eighth section of this Act.

Witnesses' costs, how paid.

XVIII. If on the hearing of any suit before any Court as aforesaid, it shall be proved that the defendant had never before the issuing of the summons been furnished with an account of the plaintiff's demand, and that the said account had been by the defendant demanded of the plaintiff at his place of residence, but that the action was vexatiously brought, then it shall and may be lawful for the said Court to give judgment only for such sum as is sufficiently proved to be due on either side, with, or without, or subject to costs, as provided in the seventeenth section of this Act.

Court may apportion costs or order plaintiff to pay the same in certain cases.

XIX. In any case where wages, not exceeding the sum of twenty pounds, shall be due to any domestic or other servant, under the age of twenty-one years, neither of whose parents resides within this Island, it shall be lawful for the said servant to sue for and recover the said wages before any of the said Courts, in the same manner, as if he or she were of full age;

Wages of servants under 21 years of age, when amount does not exceed £20, how recovered.

and the said Courts are hereby fully authorized and required to take cognizance of and proceed concerning the same, in the same manner in regard thereto, as if the plaintiff were of full age.

Advances made to a minor, &c. to be allowed to master by way of set off to wages.

XX. In all cases where a minor shall be hired as a domestic or other servant, by or with the consent of the parent or guardian, any advances or payments made for requisite clothing or other necessities to such minor shall be allowed to the master of the said minor, on account of or by way of set off to the wages of said minor, in any action brought for the recovery thereof by the parent or guardian.

Defendant may make set off, if not exceeding £20.

XXI. On any trial, the defendant shall be allowed to set off any account or demand which he may have against the plaintiff, for which, if not exceeding twenty pounds, the Court may determine and give judgment; and if the Court shall find that the plaintiff is indebted to the defendant, judgment shall be rendered in favor of the defendant for the amount found due, with costs; but if the amount of the defendant's set off shall exceed the sum of twenty pounds, the Court shall proceed to hear evidence in support thereof; and if they shall find that such set off is *bona fide* and good, and that the plaintiff is indebted to the defendant, then the Court shall dismiss the plaintiff's case and give judgment thereupon for the payment of defendant's costs by the plaintiff.

Defendant refusing to make set off on trial, precluded from recovering same.

XXII. If any defendant refuse or neglect to bring forward his set off (if any such there be) against the plaintiff at the time of trial, he shall ever after be precluded from recovering the same; and if any suit for the recovery thereof be brought, it shall be a sufficient defence on the trial thereof, that the demand sued for could have been on a former trial set off and recovered: provided always, that nothing herein contained shall extend, or be construed to extend, to prevent any defendant from sustaining his action, when it shall be made to appear to the satisfaction of the Court, that from some unavoidable circumstance he was precluded from proving his set off on the former trial.

There may be indulgence granted to defendant to satisfy judgment.

XXIII. If any defendant, against whom any judgment shall be given, shall appear to the Court who shall have given the same to be deserving of indulgence, then and in such case the said Court is hereby empowered to grant such time for the payment of the judgment as shall seem reasonable, or order the same to be paid by instalments, if the Court shall see fit: provided the time so granted shall not exceed three months, in cases where the judgment shall not exceed eight pounds; and four months, in cases where the judgment shall exceed eight pounds; said indulgence to be computed from the day of the return of the summons; and provided also, that the

said defendant so indulged shall, within such time as the Court may order, give sufficient security, by recognizance, in the form prescribed in the schedule to this Act annexed, marked (D), to pay the amount of the judgment within the time limited therefor.

XXIV. If the amount of the judgment shall not be paid at the expiration of the time so granted, then the party entitled to recover shall have execution; against the principal named and sureties in such recognizance, as in other cases after judgment: provided such sureties have ten days' notice previous to the issuing of such execution; such notice to be issued by the clerk of the said Court, and proof of service thereof on said sureties to be made before the same shall be issued.

Mode of proceeding where amount of judgment shall not be paid.

XXV. Every bailiff, constable, or officer executing any process of execution issuing out of any Court under this Act against the goods and chattels of any person, may, by virtue thereof, seize and take any of the goods and chattels of such person (excepting the wearing apparel and bedding of such person or his family, and the tools and implements of his trade to the value of five pounds, which shall to that extent be protected from such seizure,) and may also seize any money and bank notes, (whether of the Bank of England or any other Bank,) treasury or Government notes or securities (whether of Prince Edward Island or any other Government,) and any cheques, bills of exchange, promissory notes, bonds, specialties or securities for money belonging to any such person against whom any such execution shall have issued as aforesaid.

Power of bailiffs, constables, &c.

XXVI. The clerk of the Court, out of which any such execution shall have issued, shall hold any cheques, bills of exchange, promissory notes, bond, specialties, or other securities for money which shall have been so seized, or taken as aforesaid, (and which shall be delivered over to him by the constable or bailiff making such seizure thereof,) as a security or securities for the amount directed to be levied by such execution, or so much thereof as shall not have been otherwise levied or raised for the benefit of the plaintiff, and the plaintiff may sue in the name of the defendant, or in the name of any person in whose name the defendant might have sued for the recovery of the sum or sums secured or made payable thereby, when the time of payment thereof shall have arrived.

Clerk of Court to hold cheques &c., as security for amount not otherwise levied or raised.

XXVII. Any Court to be constituted under this Act, may, in any case, with the consent of both parties to the suit, order the same, with or without other matters, within the jurisdiction of the Court in dispute between such parties, to be referred to arbitration to such person or persons, and in such

Court with consent of both parties may order suit to be referred to arbitration.

manner and on such terms as the Court shall think just and reasonable; and such reference shall not be revocable by either party, except by consent of the Court; and the award of the arbitrator or arbitrators, or umpire, shall be entered as the judgment in the cause, and shall be as binding and effectual to all intents, as if given by the Court: provided nevertheless, that the same right of appeal from any judgment to be entered on any such award shall be had by the plaintiff or defendant in any suit referred under the provisions of this clause, as in other cases under this Act.

Persons aggrieved by order or judgment may appeal to Supreme Court.

XXVIII. If any person shall consider himself aggrieved by any order or judgment of any of the said Courts, he shall be at liberty to appeal to the then next sitting of Her Majesty's Supreme Court of Judicature, to be holden in the County where such Court is situated: provided always, that such appeal shall be applied for within six clear days next after the day of giving the said order or judgment; and the clerk, on application, is hereby required to enter such application; and provided also that the party or his agent, applying for the same, shall, before the expiration of the said six days, by himself or his agent, enter into recognizance with two sufficient sureties, in the form in the schedule to this Act annexed, marked (E), conditioned as therein set forth, to abide the determination or judgment of the said Supreme Court, which condition shall be read over to or repeated by the parties entering into the said recognizance before signing the same, and shall be attested by the clerk, and by him transmitted to the Supreme Court as hereinafter provided for; and the party or his agent shall also make and subscribe an affidavit in the form or to the purport and effect (being altered so as to meet the particular circumstances of the case) prescribed in the schedule to this Act annexed, marked (F), in the presence of the said clerk: provided further, that where the then next term of the said Supreme Court for the County shall commence within ten days next after the granting of any such appeal, then and in such case, such appeal shall be granted to the then next succeeding term of the said Supreme Court, to be holden in the said County.

Form of recognizance.

Form of affidavit.

Notice of appeal to be given to party respondent.

XXIX. The appellant or his agent shall also cause to be duly served upon the party respondent, or his agent, ten clear days at least before the sitting of the Supreme Court, at which the said appeal shall be heard, a written notice of appeal which in substance shall be as in the form prescribed in the schedule to this Act annexed, marked (G.)

Affidavit, &c., to be filed in the office of the Clerk of the Supreme Court.

XXX. The said clerk is hereby required to file the said affidavit, with the recognizance and other papers connected with the said appeal, and to transmit the same into the office

of the clerk of the said Supreme Court, at Charlottetown, within at least four days before the sitting thereof, under a penalty, for each and every neglect, of the sum of five pounds to the persons aggrieved thereby, to be recovered in the said Supreme Court.

XXXI. The said Supreme Court of Judicature is hereby empowered and required, upon any appeal made as aforesaid, to cause all defects in form that may appear in the original order or judgment, to be rectified and amended, without costs or expense to the party concerned; and after such amendment shall have been made, to proceed to hear, examine and consider the truth and merits of all matters concerning the said appeal and the original order or judgment appealed from; and likewise to examine all witnesses and parties, upon oath, and to hear all other proofs relating thereto, and to make such final determination thereupon, as shall appear just and reasonable.

Supreme Court may cause all defects of form, &c. to be rectified.

XXXII. If, by the consideration of the said Supreme Court, the original order or judgment shall be affirmed, and the appeal therefrom dismissed, if against the original defendant, then the said Supreme Court shall adjudge the sum or sums awarded to the original plaintiff to be paid to him, together with the costs allowed by the Court of Commissioners, as also the full costs of defending against the said appeal.

Judgment how to be given and costs awarded.

XXXIII. If the said Supreme Court shall affirm the order or judgment, when against the original plaintiff, and dismiss his appeal, then the said Supreme Court shall adjudge the sum or sums so awarded to the original defendant to be paid to him, together with the full costs of defending against the said appeal.

Power of Court when judgment is against original plaintiff.

XXXIV. If the said Supreme Court shall affirm the judgment or order of the Court below, when in favor of the plaintiff therein, in cases where the plaintiff himself is the appellant, and dismiss the appeal, then the said Supreme Court shall award to the defendant the full costs of defending against the appeal, and the same shall be set off against the judgment and costs below; and if the costs of the appeal amount to more than the judgment and costs below, then execution may be issued out of the said Supreme Court against the appellant for the excess; but if the judgment below and the costs amount to more than the costs of defending the appeal, then execution may issue out of the Commissioners' Court against the respondent for the excess thereof.

Power of Court when judgment is in favor of plaintiff, &c.

XXXV. If the said Supreme Court, upon a full hearing of any such appeal as aforesaid, shall set aside or vary the order or judgment of the Court of Commissioners, then it

Supreme Court may order costs to appellant or withhold them in certain cases

No execution to issue against sureties until certain formalities have been complied with.

Travelling expenses.

Judge of Supreme Court may make order in certain cases.

Fees of witnesses to be allowed only in certain cases.

shall and may be lawful for the said Supreme Court to grant costs, or any part thereof, to, or withhold the same from the appellant; and upon all final determinations or judgments, execution is hereby directed to be issued from the said Supreme Court for the sum or sums so recovered; and in case such final determination or judgment of the Supreme Court shall happen to be in favor of the respondent, then he may have execution against the appellant, and his goods and chattels; or in the event of a breach of the condition of their recognizance, then against the sureties and their goods and chattels: provided always, that execution shall not in any case issue against the persons or property of any such sureties, unless the amount of the judgment and costs shall have been demanded of them by some person duly authorized, at least ten clear days before issuing of such execution against them; nor unless a written notice, shortly specifying the breach or breaches made of the condition of their recognizance, and on account of which such demand is made, shall at the time of making the demand, be served on the sureties personally, or in like manner as summonses are prescribed to be served by this Act; nor until the affidavit of the facts of such demand having been duly made, and such notice at the same time been duly given, be filed with the prothonotary of the said Supreme Court, or with his deputy in the county; and the party making the demand, or causing the same to be made, shall be entitled to charge therefor, and to levy under any execution to be issued, the same mileage as constables or bailiffs may by this Act receive, together with two shillings and six pence for making and filing the said affidavit of such demand, and notice having been duly made and given.

XXXVI. If any such sureties shall contend, that no breach has been made of the condition of their recognizance, they, or either of them, may, at any time within the ten clear days after such demand made, and notice given, apply to a Judge of the Supreme Court in vacation, or to the said Court in term time, who, on hearing them, and also the respondent, on affidavits, may make such order therein respecting the issuing of any execution, or withholding or suspending the same, with or without costs of the application, as to such Judge or Court shall seem just and equitable.

XXXVII. Whenever any witness or witnesses shall be examined, or subpoenaed to be examined in the Supreme Court, on the hearing of any appeal, and such witness or witnesses shall not have been examined or tendered to be examined in the lower Court on the hearing of the cause appealed from, the costs of such witness or witnesses shall not be taxed or allowed to the party claiming the same, unless it shall appear on affidavit to the satisfaction of the Judge or

officer called upon to tax such costs, that some unavoidable cause or circumstance had prevented such party from procuring the attendance of such witness or witnesses, on the hearing of the said cause in the said lower Court.

XXXVIII. In case there be no application for an appeal as aforesaid, or the party applying for the same shall not enter into the recognizance and make the said affidavit as before directed within the time aforesaid, or that there be no indulgence granted as aforesaid, then it shall be lawful for the clerk of the Court which gave the judgment to issue execution, in the form prescribed in the schedule to this Act annexed, marked (I), upon the request, either verbally or in writing, of the party entitled to the same; and the constable or bailiff, who shall be by him entrusted with the execution, shall be and he is hereby required, after having given at least six days' notice in at least three public places, to levy by distress and public sale of the goods and chattels of the debtor the sum of money mentioned in the writ of execution, with poundage, when the same are sold, and other fees allowed by this Act in such cases.

In what cases it shall be lawful to issue execution.

XL. Whenever any goods or chattels shall be levied on by any constable or bailiff under any execution issued from any Court appointed under this Act, and the owner thereof shall be desirous of retaining the care and possession of the same until the time appointed for the sale thereof, it shall be lawful for the said constable or bailiff to take from such owner, and one good and sufficient surety to be joined with him therein, a bond or undertaking for the forthcoming of such goods and chattels in good order and condition at the time appointed for the sale thereof; and which bond or undertaking shall be in the form prescribed in the schedule to this Act annexed, marked (H); and upon the execution and delivery of such bond, the said constable or bailiff shall and may commit to the custody and care of the said owner thereof the goods and chattels so levied upon: provided always, that the said constable or bailiff shall nevertheless be responsible for any loss or damage arising from the breach of any such bond.

Constable levying an execution may permit owner of goods or chattels to remain in possession of same, until day of sale, upon signing a bond, &c.

XLIII. It shall and may be lawful for the usual writ of execution for the recovery of small debts, issued in one County, to run into another County, where the debtor may reside, or where his goods and chattels may be found; and it shall be lawful for the constable or bailiff to execute such execution within such County, and he is hereby authorized to convey the debtor to the jail, either of the County in which he may be found, or of the County in which the creditor issuing the execution may reside, at the option of such creditor; and if arrested on two or more executions, then at the option of the

Execution issued in one County may run into County where debtor resides.

creditor, whose levy shall be largest in amount; and the keeper of the jail of such County is hereby authorized and required to receive and take the body of such debtor into his custody, any thing in this Act contained to the contrary thereof notwithstanding.

Party allowing two years to elapse without suing out execution, &c., to make affidavit as to sums paid on judgment, &c.

Proviso.

Constable to return execution within the time named for the return of same.

Mode of proceeding when debtor is about leaving this Island.

Each Court to appoint not less than three bailiffs.

Duties of bailiffs so appointed.

XLIV. If any party who shall have obtained a judgment in any of the Courts by this Act constituted, or in any Court or Courts that may have been constituted under any Act or Acts hereby repealed, shall have suffered, or shall suffer two years to elapse without having sued out execution, or, having sued out execution, shall have allowed two years to elapse after the return thereof, without having sued out an *alias* or a *pluries* execution, he shall be required to make an affidavit before the clerk of the said Court constituted under this Act, in or for the district where such judgment shall have been given, stating if any, and what sum or sums have been paid on said judgment; after which, he shall be at liberty to sue out execution for the amount then remaining due and unpaid thereon: provided that no execution, or *alias* execution, shall be issued on any judgment heretofore recovered under any of the said recited Act or Acts hereby repealed, or which shall hereafter be recovered in any Court constituted under this Act, after the lapse of twenty years from the date of such judgment, or the return of the execution, or last execution issued thereon.

XLV. When an execution is entrusted to any constable or bailiff appointed to any Court constituted under this Act, such constable or bailiff shall return the same into the Court out of which it issued within the period therein named for making the return, and deposit the same with the clerk of such Court; or, in case of the imprisonment of the debtor thereunder, shall lodge with the jailer particulars in writing of the cause of such imprisonment, and make a return in writing of proceedings on such execution to the clerk of the said Court forthwith.

XLVI. A party, obtaining judgment in any of the said Courts as aforesaid, and having reason to believe that the person against whom the same has been given is about to leave this Island, may demand execution forthwith, on an affidavit by himself, or his agent, being made in the form, in the schedule to this Act annexed, marked (J.)

XLVII. It shall and may be lawful for, and it shall be the duty of each and every of the Courts of Commissioners for the recovery of small debts to be constituted under this Act, to nominate and appoint a sufficient number of persons to be bailiffs or constables of such Court—not being less than three for each Court—to serve the processes and to enforce, levy and carry out the orders, judgments, executions, and other pro-

ceedings of the Court; and it shall be required from every such constable or bailiff, before entering upon the duties of his office, or being authorized to act in such capacity, to enter into a bond, with two sufficient sureties, to our Sovereign Lady the Queen, her heirs and successors, for the due performance of the duties of his office, and for the due return of all writs or processes to him entrusted into the said Court, and for the due payment of all moneys coming into his hands by virtue of his said office, to the respective parties entitled thereto; or into the said Court at the respective returns of the said writs; which bond shall be in the form in the schedule to this Act annexed, marked (K), and shall be in a penalty not exceeding one hundred pounds, nor less than twenty pounds, at the discretion of the said Court; and which bond shall be deposited with the clerk of such Commissioners' Court, and by him lodged in the office of the Prothonotary of the Supreme Court, or his deputy, in the County wherein such Court may be situate.

XLVIII. Each of said Courts shall at all times have the power of dismissing and discharging from further service in such Court, any bailiff or constable so appointed, and of appointing another person in his place; and any constable or bailiff so dismissed or discharged shall have power, and he is hereby authorized to perfect and complete any business in his hands which has been commenced and is not completed at the time of such discharge; and for the due and faithful exercise and performance of his duty therein, the said bond shall, and it is hereby declared to be good and valid against such constable or bailiff, and his sureties, until such duties are fully and finally performed and discharged.

Courts may dismiss bailiffs, &c., of such Courts, and appoint others in their stead.

XLIX. If any constable or bailiff shall suffer any prisoner in his custody, by virtue of an execution issued under the authority of this Act, to escape either voluntarily or negligently, or who shall be shown to have neglected to apprehend any person against whom any such execution has been placed in his hands, or who shall neglect or refuse without delay to pay over to the party entitled to receive the same any sum or sums of money levied or received thereon, on demand made within thirty days from the date of the execution, shall be liable to pay a fine of five pounds, over and above the full amount of the sum or amount of such execution—to be recovered before the Court by which such execution was issued, by execution or warrant of distress of the said bailiff's or constable's goods and chattels; and if no sufficient distress of the said goods and chattels can be found whereon to levy the same (return thereof being made), then upon certificate of such return, under the hand of the clerk of the Court, and upon affidavit of demand having been made upon the

Constable, &c., suffering prisoner to escape, subject to a fine of 25.

sureties named in the said bond, and filed with the Clerk of the Supreme Court, it shall and may be lawful, twenty days thereafter, for the said Clerk to issue execution against the said sureties for the debt, penalty and costs of the said original execution or warrant of distress against the said constable or bailiff, together with mileage for making such demand, and the fees of the said Clerk for taking such affidavit and issuing such second execution; and if no sufficient goods be found to satisfy such execution, then the said Court is hereby authorized to commit both the constable or bailiff and his sureties to the common jail of the County wherein such Court has jurisdiction, for a period not exceeding six months.

Constable &c., absconding, a summons may be issued against the sureties of such constable, &c.

L. In case any such constable or bailiff, having given such bond as aforesaid, shall abscond or be absent from the Island, so that no summons or other process can be legally served on him for any default or neglect of duty, or refusal to perform his duty under this Act, proof being made by affidavit, to the satisfaction of the Court to which he belongs, or any of Commissioners thereof, that the said constable or bailiff is absconding, or absent from the Island, so that no summons can be legally served upon him, then and in such case, it shall and may be lawful for such Court to issue a summons, in the name of the party aggrieved, against the surety or sureties of the said constable or bailiff in the said bond, and to adjudicate against such surety or sureties, respecting any matter or claim arising out of the default or neglect of duty, or for every refusal of the said constable or bailiff to perform his duty, for which the surety or sureties is or are liable under the said bond, and to issue execution or other process against the said surety or sureties, as the said Court is or may be by law authorized to do in case the said constable or bailiff was not absconding, or absent as aforesaid, (and no sufficient distress of his goods or chattels could be found) and in the event of the plaintiff or plaintiffs being nonsuited, or of a judgment being given by the said Court in favor of the surety or sureties, the said Court is hereby authorized to issue execution against him or them in favor of such surety or sureties, in the same way and manner as execution can or may be issued against any plaintiff and defendant under this Act.

Mode of proceeding in cases of nonsuit.

Constable, &c., neglecting to make due return, how punished.

LI. If any constable or bailiff who shall be charged with the service of any process issued by any Court constituted by this Act, and made returnable within a certain and defined period of time, shall neglect to serve or execute such process, or shall refuse or neglect to make due return thereof within the period prescribed therefor, it shall and may be lawful for the said Court to impose on such bailiff or constable a penalty not exceeding twenty shillings for the first offence, and a penalty not exceeding forty shillings for the second and each sub-

sequent offence, together with costs; and such bailiff or constable shall also be liable to the party aggrieved for the amount of any loss sustained by such neglect or refusal.

LII. Each of the said Courts, at the monthly sitting thereof, shall have power to call for the return of all convictions, executions, and other processes returnable since the last sitting day of the said Court, and to proceed against the constable or bailiff to whom the same have been respectively entrusted for the neglect or refusal to return them, as by this Act is directed; and no execution returned in the said Court shall be renewed, but in all cases where the same has not been satisfied, an *alias* execution may be issued at the plaintiff's or defendant's (as the case may be) request for the amount due on the said judgment.

Court may call for return of all convictions, &c. monthly.

LIII. If any bailiff or constable shall be removed by order of any such Court as aforesaid, he shall, within thirty days after such removal, deliver over to the Clerk of the Court to which he belongs, a true and faithful account of all business in his hands, together with all sums of money, papers, documents, books, and other things which he may have received on account of any process or execution with which he may have been entrusted; and if such bailiff or constable so removed, shall fail to make such delivery over, within the time aforesaid, he shall forfeit and pay to each party thereby aggrieved, a fine or penalty of five pounds, over and above the amount of all sums due from him, and all papers, books and documents, or other things retained, or the value thereof.

In case of removal, bailiff, &c., to deliver to clerk an account of all business in his hands, &c.

LIV. All suits against any constable or bailiff not absconding or absent, as hereinbefore mentioned, or against his surety or sureties, under and by virtue of this Act, shall be instituted and conducted in the name of the party or parties aggrieved.

Suits against constable, &c., to be instituted in the name of party aggrieved.

LV. The sureties for a constable or bailiff in any bond, or either of them, shall at any time be allowed to withdraw from being sureties or surety for such constable or bailiff, as aforesaid, on giving notice, in writing, under their or his hands, stating their or his desire to be relieved from being sureties or surety, to the Clerk of the Court, under this Act, to which the constable or bailiff belongs; and the said surety or sureties shall not be liable on any fresh writs, executions, or other process issuing out of the said Court, which, after the due delivery of such notice, may be placed in the hands of such bailiff or constable; but the said bailiff or constable shall nevertheless have power, and he is hereby authorized to perfect and complete any business in his hands which may have been commenced but not completed at the time of such notice as aforesaid; and for the due and faithful exercise and performance of his duties therein, the said bond shall be, and it is

Constable's sureties allowed to withdraw on certain conditions.

Permits constables, &c., to find new sureties, &c.

hereby declared still to be good and valid against such constable or bailiff and his sureties, until such duties are fully and finally discharged and performed, notwithstanding such notice of withdrawal as aforesaid : provided always, that if such constable or bailiff shall be able to find new sureties, or a new surety, in any such bond as aforesaid, the Court may, if they think proper, reappoint him a constable or bailiff of the Court on his entering into a fresh bond with such new sureties or surety.

Prohibits attorneys, &c., of Supreme Court from being heard on behalf of parties, except in case of absence, &c.

LVI. No attorney or counsel of the Supreme Court shall be allowed to speak on behalf of any plaintiff or defendant in any Court constituted under this Act, unless such plaintiff or defendant be absent from this Island, and such attorney or counsel shall be his authorized agent therein : provided always, that nothing herein contained shall prevent, or be construed to prevent any person duly authorized, other than an attorney or counsel of said Supreme Court, from appearing on behalf of any corporate body, in any cause or matter, before any Court constituted by this Act, in which such corporate body may be concerned, either as plaintiff or defendant, but if the only authorized agent of such corporate body in this Island shall be an attorney or counsel as aforesaid, then he may appear for such corporate body.

Mode of procedure when witness is obliged to leave this Island.

LVII. When it shall so happen that any witness, who may be considered necessary to be produced on the trial of any cause under the provisions of this Act, is obliged to leave this Island, it shall and may be lawful for any Commissioner, after due notice in writing to the adverse party to be present, if he shall see fit, to take the deposition of such person obliged to leave this Island as aforesaid ; and such deposition so taken and certified under the hand and seal of the said Commissioner, and directed to the Court wherein such suit or action may be pending, shall be received as legal evidence in said suit : provided that proof shall be first made on oath that due written notice was given to the adverse party of the time and place of taking such deposition, at least three days previous to the day appointed for taking such evidence : and provided also, that if such witness shall, at the time of the trial of the suit, be on this Island and able to travel, he shall be required to give his testimony *viva voce* at said trial, in the same manner as if the deposition had not been taken.

Absconding debtors, how proceeded against.

LVIII. And whereas, it is necessary to give the Courts to be constituted by this Act the power of adjudicating when the debtor has absconded : Be it therefore enacted, that it shall and may be lawful for the Clerk of any of the said Courts of Commissioners, upon application made to him on oath in the form prescribed in the schedule to this Act annexed, marked (L), in cases where the debt shall not exceed twenty pounds, to issue an attachment in the form prescribed

in the schedule to this Act annexed marked (M), and any bailiff or constable of such Court, or of any other Commissioners' Court for the County wherein such Court whence the attachment shall issue, shall be held, may thereupon attach the goods and chattels of the absconding or absent debtor, in whatsoever County they may be found, to the amount of the debt and probable costs of suit, and secure the same to be forthcoming to satisfy the execution which may issue in the cause, with all costs thereon, unless such goods and chattels shall be forthwith released on security being given, as hereinafter prescribed and allowed.

Bailiff may attach goods, &c. of debtor wherever found, and secure same, unless released on security.

LIX. The bailiff or constable shall at the time of making such attachment, deliver to the wife or other agent of the debtor in whose charge or custody such goods or chattels may then appear to be, or serve, in like manner as a summons for a small debt, a notice in the form prescribed in the schedule to this Act annexed, marked (N), that he or she may inform his or her principal of the proceedings taken, or attend at the hearing of the case, and assert any claim he or she may have, if he or she shall see fit; and such attachment and notice being duly returned to the Court, whence such attachment shall have been issued, shall be sufficient to warrant the said Court in hearing the case at its next sitting, and the Court shall thereupon proceed to try the cause, and give judgment therein.

Bailiff to deliver to wife, &c., a notice.

LX. Any person, in whose hands or possession any property may be attached as aforesaid, shall be at liberty to retain possession of the same upon giving security by himself or herself, and one or more sufficient sureties, to the satisfaction of the officer making the attachment to the fair apparent value, in his opinion, of the property attached, and in the form prescribed in the schedule to this Act annexed marked (O), that the articles shall be forthcoming, or the value thereof paid on demand, if requisite, to satisfy the judgment, which may afterwards be given; and in case judgment shall be given for the plaintiff, then, after the expiration of three months, execution may issue against the property so attached; and in case the same, or any part thereof, be not forthcoming, then against the proper goods and chattels of the sureties to levy the sum for which they shall have become bound as aforesaid, with costs of demand and execution; and in default thereof, against their persons, as in cases of execution against defendants for small debts, unless such sureties shall comply with their obligation given as aforesaid; the noncompliance to be first ascertained on affidavit made before, and filed with the Clerk of the Court wherein such judgment shall have been given.

Persons allowed to retain property, on giving security for value thereof.

Wife, agent,
&c., of abscond-
ing debtor, may
be summoned
before Court, in
certain cases.

Duty of Court
in such cases.

Form of recog-
nizance for the
forthcoming of
goods.

LXI. Where no goods, chattels or effects of such absent or absconding debtor in the hands or under the management of his wife, agent, or other person, shall be exposed to view, or can be come at, so as to be attached, then it shall and may be lawful for the Clerk of the said Court of Commissioners, whence such attachment shall have issued, on application being made to him for that purpose, and an oath being also made in the same manner as hereinbefore mentioned, and in the form prescribed in the schedule to this Act annexed, marked (L), in cases where the debt shall not exceed twenty pounds, to issue a summons in the form prescribed in the schedule to this Act annexed, marked (P), to be served on the wife, agent, or other person, in whose hands or under whose control, although not exposed to view, it may be thought some of the goods, chattels, or property of the absent or absconding debtor are, requiring such wife, agent, or other person to appear before the said Court to answer the plaintiff, and the said Court shall proceed to try the cause and give judgment therein; and if, on the examination of the said wife, agent, or other person, any goods, chattels, or property of the absent or absconding debtor shall be discovered to be in his or her hands or power, then the said Court shall issue an attachment against the same, in the form in the schedule to this Act annexed, marked (M), to be executed by any constable or bailiff, as in the forty-eighth section of this Act mentioned, or make such order on the said wife, agent, or other person to surrender and deliver up the same, as to the said Court may seem proper: provided always, that such wife, agent, or other person may be at liberty to retain possession of such property on giving security by himself or herself, with one or more sureties, to the satisfaction of the Court, to the fair apparent value of the property so in his or her hands, in the form in the schedule to this Act annexed, marked (Q), that the articles shall be forthcoming, or the value thereof paid on demand, if required, to satisfy the judgment given; and in case judgment be given for the plaintiff, then, after the expiration of three months, execution may issue against the property so discovered to be in the hands or power of the said wife, agent, or other person; and if the same be not forthcoming, or any part thereof, then against the goods and chattels of the sureties and their persons, in the same manner, as pointed out in the last preceding section of this Act: and provided always, that when any moneys shall be discovered in the hands or power of such wife, agent, or other person as aforesaid, or any valuable securities or effects, and not by law salable under execution, then it shall and may be lawful for such Court of Commissioners to make and enforce such order, touching the disposal of such moneys, securities, or effects, for and towards satisfaction of the debt and costs sued for, as such Court shall deem just and reasonable.

LXII. Any absent or absconding debtor, against whom any judgment shall or may be awarded under this Act, shall be entitled to a rehearing of the cause at any time within twelve months next after judgment; and the plaintiff in such action shall, before he shall be entitled to his execution, give sufficient security to the satisfaction of the Court, in the form prescribed in the schedule to this Act annexed, marked (R), for the repayment of all such moneys as shall be levied by the said execution, in case the judgment be reversed on such rehearing as aforesaid; anything in this Act contained to the contrary notwithstanding.

Absent debtor may have a rehearing within twelve months.

LXIII. Any person who shall have been duly summoned as the agent, wife, factor, or trustee of an absent or absconding debtor, as hereinbefore provided for, and who shall neglect to attend the Court of Commissioners, as such summons may require, (without cause to be allowed by the Court) or shall, when before the Court, pursuant to such summons, refuse to be sworn and examined touching the matters in question, to the satisfaction of the Court, such person shall be forthwith committed to the jail of the County in which such Court shall be held, there to remain until he or she shall comply with the terms of the summons so served upon him or her, and pay the costs of his or her contempt.

Agent, wife, &c., of absent debtor neglecting to obey summons, or refusing to be sworn, &c., how punished.

LXIV. No action or suit for any sum due upon any contract not amounting to the value of ten pounds, and being in any case or event recoverable by virtue of this Act, shall be commenced in any Court of Record within this Island: provided always, that when the plaintiff shall, upon any such action or suit brought in any Court of Record, obtain a verdict there for less than ten pounds, then, if the Chief Justice, or other Justice before whom the same cause may have been tried, shall certify a reasonable or probable cause of action for more than ten pounds, then, and in such case, the plaintiff shall not be liable to pay costs, but may recover his costs of suit as if this Act had not been made.

No sum due on contract, not exceeding £10, to be sued for in any Court of record.

LXV. All Courts established by virtue of this Act shall have power to punish, by fine or imprisonment, or both, any person guilty of contempt of Court, or riotous or disorderly conduct thereat: provided always, that no fine to be imposed by virtue of this clause shall exceed forty shillings, nor any imprisonment exceed the term of thirty days.

Contempt of Court, &c., how punished.

LXVI. Any Clerk to be appointed under this Act, issuing any summons without the fee thereon being first paid, shall not be entitled to recover the same by any process of law.

Clerk cannot sue for fee for summons.

LXVII. All fees properly belonging to the Commissioners, arising out of any summons or proceeding whatsoever under

Commissioners' fees, how ap-

portioned, and when paid.

this Act, shall be divided equally between the Commissioners, or Commissioners and Justice of the Peace present and presiding at each sitting of the Court, and no other; all such fees to be entered and settled at every such sitting, together with the costs of all proceedings had or taken since the last previous sitting of the Court: provided always, that no Commissioner other than those usually sitting in or appointed to any particular Court under this Act shall take upon himself to hear or determine any cause pending therein, unless he shall be requested so to do by some of the Commissioners thereof.

Empowers Justices of the Peace, &c., to issue bailable process in certain cases.

Form of affidavit.

Form of capias.

Mode of proceeding on appearance of defendant.

Mode of proceeding when judgment for plaintiff.

Executors and administrators entitled to sue under this Act.

LXVIII. Whereas it is necessary to give to Justices of the Peace and to the Commissioners appointed under this Act, a power to issue bailable process in cases of small debts, where the debtor is about to leave this Island: Be it therefore enacted, That it shall and may be lawful for any Justice of the Peace, or any Commissioner appointed under this Act, or the Clerk of any Court constituted under this Act, upon application made to him, in all cases where the debt shall not exceed twenty pounds; and on affidavit being made in writing—which affidavit shall be in the form in the schedule to this Act annexed, marked (S)—to issue a capias—which capias shall be in the form in the schedule to this Act annexed, marked (T)—to arrest the body of the debtor, in whatsoever County he may be found, and bring him before him, or before any Justice of the Peace residing nearest to the place where such debtor shall be arrested; and upon the appearance of said debtor, if he shall tender good and sufficient bail, that he will appear and answer the suit at any sitting of the Commissioners' Court for the district within two months next after the issuing of such capias, it shall be lawful for the said Justice, Commissioner or Clerk, to take a recognizance for the said appearance from the said defendant, with two sufficient sureties, in the form in the schedule to this Act annexed, marked (U); and if the defendant do not appear and answer to the plaintiff's suit, on the day named in the said recognizance, the said Court shall proceed to try the same in the absence of the defendant; but all persons appearing on behalf of the said defendant shall nevertheless, if tendered, be examined before adjudication; and if judgment shall be given in favor of the plaintiff, execution shall be awarded, as well against the goods and chattels of the defendant as against the goods and chattels of the said bail, in the form in the schedule to this Act annexed, marked (V), for the amount of the judgment and costs.

LXXIV. Any executor or executrix, administrator, or administratrix shall be entitled to bring or maintain an action of debt or trover under this Act, in respect to any money due,

or property belonging to his or her testator, or intestate, or revive any judgment recovered by his or her testator or intestate, in his or her lifetime, as fully, in all respects, as any person is authorized to bring or maintain any such action, or revive any such judgment hereunder, in his or her own individual right, any thing herein contained to the contrary thereof notwithstanding.

LXXV. And whereas it is deemed expedient to provide for the relief of insolvent debtors confined within any jail within this Island, for any debt, damages, or costs, whether on *mesne* or final process issued out of any Court to be constituted under this Act: Be it therefore enacted, that from and after the passing of this Act, so much of the Act of the General Assembly of this Island, passed in the fourteenth year of the reign of her present Majesty, intituled "An Act to consolidate and amend the laws now in force for the relief of insolvent debtors," as prohibits persons confined by virtue of process issued under any Act for the recovery of small debts from obtaining relief as insolvent debtors, shall be, and the same is hereby repealed.

Repeals part of insolvent debtor Act, &c.

LXXVI. It shall and may be lawful for the Lieutenant Governor for the time being, by and with the advice and consent of Her Majesty's Executive Council of this Island, and they are hereby empowered and required to commission and appoint three fit and competent persons as Commissioners, two of whom shall be a quorum, in and for each of the Counties in this Island, to carry into effect the purposes of this Act, hereinafter expressed, with reference to the relief of insolvent debtors, and who shall reside within the respective Counties for which they shall be appointed, and within six miles distance of the respective Court Houses of the said Counties; and in all cases of the death or resignation of any such Commissioner or Commissioners so to be appointed, or his or their nonresidence or removal from within the aforesaid distance of the respective Court houses in the said Counties, for which he or they were respectively appointed; or in case of his or their six month's absence therefrom, or of malfeasance, or maladministration in his or their respective duties, or his or their other incapacity, in the discretion of the Governor and Council, as aforesaid; or of his or their neglect or refusal to accept office, the said office, with respect to such Commissioner or Commissioners shall be deemed vacant, and it shall be lawful to and for the Governor and Council as aforesaid, and they are hereby directed, from time to time, and as often as any such vacancy or vacancies shall occur, to appoint other Commissioners or Commissioner in his or their stead; all which said Commissioners, so to be appointed by virtue of this Act, shall have and be vested with the like powers and autho-

Lt. Governor, &c. authorised to appoint 3 Commissioners for each County, for the relief of insolvent debtors.

Vacancies by death, resignation, &c., how filled up.

Powers of Commissioners.

rities in every respect, within the Counties in which they shall respectively reside, for the purposes of this Act, as are conferred upon any two of the Justices of Her Majesty's Supreme Court of Judicature by the hereinbefore recited Act of the fourteenth year of the reign of her present Majesty, chapter two, for the purpose of granting relief to insolvent debtors confined under *mesne* or final process of the said Supreme Court.

Persons imprisoned and unable to provide necessary support, to be entitled to weekly allowance.

LXXXVII. Every person confined in any jail in this Island, by virtue of any *capias*, execution or other process issued from any Court, or by any officer or other person authorized by this Act for that purpose, and unable to provide or obtain his necessary support, shall be entitled to receive a weekly allowance in money, upon an order to be made by the said insolvent Commissioners: provided such confined person would be or be deemed to be entitled to such weekly allowance as an insolvent debtor, were he confined, by virtue of process issuing from the Supreme Court of Judicature.

Application for weekly support to be made to two Commissioners.

LXXXVIII. Every application for such weekly support shall be made to, and the order therefor may be granted by any two of the said Commissioners for the County wherein such person shall be imprisoned, and shall be made in like manner, and under and subject to such rules, regulations and conditions as are prescribed in the said recited Act of the fourteenth year of her present Majesty's reign, chapter two.

In what case Commissioners are empowered to discharge debtor.

LXXXIX. In case the creditor, or party ordered to pay such weekly allowance, shall fail duly to pay the same, the said Commissioners shall be, and they are hereby empowered to make order for the discharge of such debtor out of confinement; which order shall be made in manner prescribed for similar cases in the said recited Act, and shall have the like virtue, force and effect regarding the person's rights, goods and chattels of the insolvent debtor, and his creditors, as well touching the Commissioners who shall make such order, and sheriff, jailer, or other officer or officers who shall execute or act under the same.

Power of Commissioners to refuse or suspend order.

LXXX. The said Commissioners shall have power upon cause shewn as prescribed in the said recited Act, either to refuse to make such order as aforesaid, or if made, to suspend the same.

Attendance of witnesses.

LXXXI. The said Commissioners may issue subpoenas under their hands for the attendance of witnesses who shall be bound to obey the same, subject to the rules and conditions in that respect prescribed in the said recited Act.

Rights of creditor, &c. under 14th Vic. c. 2,

LXXXII. Every right, privilege and advantage, which can or may by law ensue to any insolvent debtor, or to any creditor of any insolvent debtor, or to the executors or administra-

tors of either, by the discharge of such debtor, whether by consent, or otherwise, under and by virtue of the hereinbefore recited Act, shall and may, in a similar manner, ensue to and be available by every insolvent debtor so discharged by virtue of this Act, and to and by every creditor of such insolvent debtor.

to be extended in a similar manner under this Act.

LXXXIII. Every Judicial or Ministerial Officer, Sheriff, Jailer, or other person, required to do or perform any act or business touching any Insolvent Debtor confined under this Act, shall be bound to proceed therein in manner, in the said recited Act prescribed, for similar officers or persons in similar cases, as near as the circumstances will allow, and shall be entitled to the like protection and indemnification as therein allowed.

Judicial Officer, &c., required to proceed in manner prescribed for similar officers, in 14th Vic., cap. 2.

LXXXIV. Every person who shall be convicted of wilfully and corruptly making or taking a false oath to any of the matters in or by virtue of this Act, required to be sworn to, whether especially expressed in this or the said hereinbefore recited Act of the fourteenth year of the reign of her present Majesty, chapter two, or who, in any examination upon oath, or solemn affirmation, before any Court to be constituted under this Act, or before any Commissioner, Justice of the Peace, or Commissioner for insolvent debtors, shall wilfully and corruptly give false evidence, shall be deemed guilty of perjury.

Who shall be deemed guilty of perjury.

LXXXV. Every order, act, proceeding, matter, or thing required to be done for the purpose of carrying into effect the power and authority given and intended by this Act for or relating to the relief of insolvent debtors, and not herein specially referred to or expressed, shall be made, done, performed and observed, as nearly as the circumstances of each particular case will admit, in conformity with what is prescribed and set forth in similar cases in the said recited Act.

The 14th Vic., cap. 2, to be followed in all orders, &c., for the relief of Insolvent Debtors.

LXXXVI. And whereas it is expedient to extend to Justices of the Peace, and to Commissioners under this Act, the power of issuing bailable process in cases of debt above twenty pounds, and not exceeding thirty pounds, where the debtor is about to leave this Island: Be it therefore enacted, That it shall be lawful for any Justice of the Peace, or Commissioner acting under this Act, upon application made to him in such cases, and on affidavit being made in writing before him in the form in the schedule to this Act annexed, marked (S), to issue a *capias*, which shall be in the form in the schedule to this Act annexed, marked (X), to arrest the body of the debtor in whatsoever County he may be found, and upon his appearance before said Justice or Commissioner, or any other Justice of the Peace or Commissioner, residing nearest to the place where such debtor shall have been arrested, if he do not tender good

Gives power to Justices of the Peace, &c., to issue bailable process when debt is above £20 and does not exceed £30.

Form of bail bond.

Duty of constable.

Fee for bail bond.

Plaintiff to serve defendant with declaration 8 days before sitting Supreme Court.

Persons confined in jail under this act not entitled to benefit of the Act 12 Vic., cap. 1.

In what Court plaintiff must bring his action.

Limitation of actions com-

and sufficient security, that he will appear and answer the plaintiff at the next term of the Supreme Court for the County wherein the Justice or Commissioner issuing the *capias* has jurisdiction, and execute a bond to the Sheriff of the County to that effect, in the form in the schedule to this Act annexed marked (Y), the said Justice or Commissioner is hereby required to direct a precept under his hand and seal to the Sheriff of the County in the form in the schedule to this Act annexed marked (Z), to receive the said defendant, and detain him in his custody, until the next sitting of the said Supreme Court as aforesaid; and the constable who shall have arrested the said defendant shall take the said precept, and the said defendant, and forthwith lodge him in the County jail; and it shall be lawful for the Justice or Commissioner, if a sufficient bail bond shall be tendered and executed, to demand from the defendant the sum of two shillings and sixpence for the same.

LXXXVII. When any person shall be so arrested, as in the last preceding clause mentioned, the plaintiff shall, at least eight days before the sitting of the said Court, serve the defendant with a declaration, wherein the cause or causes of action shall be set forth, in the same manner as is usually done in summary writs issued out of the Supreme Court, and the suit shall then proceed in the same manner, as if it had originally commenced by summary writ out of the said Supreme Court; and in case the defendant shall make default in appearing and putting in special bail, the plaintiff shall be entitled to demand an assignment of the bail bond, and to proceed thereon in his own name in the same manner as in other cases.

LXXXVIII. No person confined in jail under and by virtue of any execution issued under this Act shall be entitled to the benefit of an Act made and passed in the twelfth year of the reign of her present Majesty, intituled "An Act relating to the limits and rules of Jails in this Island."

LXXXIX. Any plaintiff bringing an action or suit in any of the Courts to be constituted under this Act, must bring the same either in the Court which holds its sittings nearest to his own or his agent's place of residence, or in that which holds its sittings the nearest to the residence of the defendant or his agent, but at the option of the plaintiff: provided always, that where the plaintiff shall have moved his place of residence after the cause of action arose, he may, if he think fit, bring his action in the Court which hold its sittings nearest to the place where the cause of action arose or the debt was contracted.

XC. If any action or suit shall be commenced against any person for any matter or thing done in pursuance of this Act, such action or suit shall be brought or commenced within six

calendar months next after the cause of action shall have arisen, and not afterwards; and the same shall be laid and brought in Her Majesty's Supreme Court of Judicature, and not elsewhere; and the defendant in such action or suit may plead the general issue therein, and give this Act and the special matter in evidence at the trial thereof; and if the matter or thing for which such suit or action may be brought shall appear to have been done in pursuance of this Act, then the jury shall find for the defendant; and if the plaintiff become nonsuited, or discontinue his action or suit, or if, upon verdict or demurrer, judgment shall be given against the plaintiff, or if the said action shall be brought in any other Court than the said Supreme Court, then, and in either of the said cases, the defendant shall and may recover full costs, to be taxed as between attorney and client, and have such remedy for the same, as any defendant hath, in any other case by law.

menced against persons acting under this Act.

Defendant to be allowed full costs in certain cases.

XCI. All bonds and recognizances given under or by virtue of the said repealed Acts, or any of them, shall be, and the same are hereby declared to be and remain in full force and effect for the purposes for which the same were respectively given, notwithstanding the repeal of the said Acts; and such bonds and recognizances shall and may, after this Act shall go into operation, be sued upon, enforced and recovered in Her Majesty's Supreme Court of Judicature, or in any Court constituted under this Act, at the option of the plaintiff.

Bond, &c., given under repealed Acts to remain in full force for certain purposes.

XCII. The Commissioners of small debts heretofore appointed and now acting under and by virtue of all or any of the Acts hereby repealed, shall continue to act and adjudicate under the provisions thereof, for and until the end of thirty days after this Act shall go into operation; for which purpose, and also for sustaining such Acts and adjudications, and all proceedings heretofore had or hereafter to be had or pending in the said courts, the said Acts hereby repealed, or so many of them as are now unrepealed, shall be held to continue in force; nor shall any thing in this Act contained prevent any of the said Commissioners who, previous to the expiration of the said thirty days, shall have issued any summons, from adjudicating thereon, or from issuing execution or executions for the judgment or judgments previously given, or that may be given in any such cases, where summonses have already been issued, or from fulfilling and perfecting all and singular the business commenced under and by virtue of the powers vested in them by the said repealed Acts, or any of them, in so far as the same can be done and completed previous to the expiration of the said period of thirty days, under the provisions of the said Acts hereby repealed.

Commissioners appointed under Acts hereby repealed, to act for thirty days after this Act shall go into operation.

Reappointment of Commissioner not to vacate the seat of member of Assembly.

XCIII. The reappointment of any member of the present House of Assembly to the office of Commissioner of small debts under this Act shall not extend, or be construed to extend, to vacate the seat of such member, any statute, usage or custom to the contrary notwithstanding.

Fines and penalties how recoverable.

XCIV. All fines and penalties imposed by this Act shall be recoverable, with costs, on the oath of one or more credible witness or witnesses, unless where otherwise directed, before any Court to be constituted under this Act, where such fine or penalty shall not exceed the sum of twenty pounds; and if above that sum, by action in Her Majesty's Supreme Court of Judicature; and unless where otherwise appropriated, they shall be paid into the treasury of this Island, to and for the use of Her Majesty's Government.

No greater fees to be taken than allowed by this Act.

XCV. No person acting under and by virtue of this Act shall take or receive, directly or indirectly, any greater or other fee or fees for his services, than is or are mentioned and allowed in the table of fees to this Act annexed.

Court may revoke appointment of Clerk.

XCVI. If any of the said Courts of Commissioners under this Act shall see fit at any time to revoke any appointment of a clerk made by it, it shall be authorized so to do, and the books and records, papers, securities, moneys and documents kept by the clerk as aforesaid, or in his custody or possession, shall, on his going out of office, be handed over to the Commissioners constituting the said Court; and upon his neglecting or refusing to deliver up the said books, records, papers, securities, moneys or documents, or any of them, when demanded, he shall forfeit and pay for such offence a sum not exceeding twenty pounds, besides the value to the several parties injured of all such books, records, papers, securities, moneys and documents so in his hands; the same to be recovered, with costs, in the Supreme Court of Judicature of this Island, and applied to and for the use of Her Majesty's Government.

When this Act shall go into operation.

XCVII. This Act shall commence and go into force and operation on the first day of June in the year of our Lord one thousand eight hundred and sixty, but not sooner.

Duty of Clerks of former Commissioners' Courts.

XCVIII. It shall be the duty of each clerk of the Courts of Commissioners for the recovery of small debts, constituted and acting under or by virtue of all or any of the Acts of the General Assembly of this Island hereby repealed, within thirty days after this Act shall go into operation, to return and hand over to the Court to be constituted under this Act, which shall hold its sittings the nearest to the Court of which he is clerk, all books, records, documents, papers, writs and

other writings, matters and things in his charge and custody as such clerk as aforesaid, and duly entered and made up; and the Court, under this Act, immediately after the same shall be duly lodged therein, shall have jurisdiction over all matters and judgments pending or undetermined, or recovered in the Court from which such books, records, documents, papers, writs, and other writings, matters and things proceed; and shall have power to hear and adjudicate therein and upon, and to issue execution on judgments already recovered in said lastmentioned Court as fully and effectually to all intents and purposes, as if the said Court under this Act had originally entertained the suit or suits, or judgments, or other proceedings returned out of any such Court constituted as aforesaid under the Acts hereby repealed, or any of them, the forms of proceeding being altered to meet the circumstances of each case; and every such clerk of the lastmentioned Courts neglecting or refusing to make such return, or to hand over such books, records, documents, papers, writs, or other writings, matters or things so duly entered and made up as aforesaid, to such Court under this Act, nearest to the Court of which he is or has been clerk, within the period aforesaid, shall forfeit and pay for such offence, to each person aggrieved thereby, a sum not exceeding twenty pounds, besides the value of the papers or other documents belonging to each person aggrieved; the same to be recovered, with costs, in any Court constituted under this Act, and paid to the party or parties aggrieved.

The forms of proceeding to be altered, &c.

XCIX. In case of the death of any clerk of any such Court constituted and appointed under the several Acts hereby repealed, or any of them, before the space of thirty days after this Act shall go into operation, it shall be the duty of the Commissioners, or one of them, appointed under the said repealed Acts, of the Court to which such clerk may have belonged, to hand over and make return in the same manner as the clerk is required to do by the last preceding clause of this Act, under the same penalty and fine in each case as is therein inflicted on said clerk neglecting or refusing, besides the value of the papers and documents as therein mentioned, and also recoverable as in the last preceding clause mentioned; and the Court constituted under this Act, shall have like jurisdiction and authority to proceed, after such return made under this clause, as it would have had, if the return had, been duly made by the clerk as hereinbefore set forth.

Duty of Commissioners under repealed Acts, in case of death of Clerk.

C. Provided always, that where any Court of Commissioners constituted under any Act or Acts hereby repealed shall not have had an authorized clerk, then, and in such case, it shall and may be lawful for any Court constituted under this Act, which shall hold its sittings the nearest to the place where the

Mode of enforcing unsatisfied judgment obtained under repealed Acts.

Penalty on old Commissioners, &c., refusing to comply with provisions of this section.

said firstmentioned Court was held, or for any Commissioner or clerk of the said Court under this Act, at the instance of any person who may have recovered a judgment or judgments in such old Court, and which said judgment or judgments shall or may remain unpaid, or not wholly satisfied or discharged, or at the instance of the agent or personal representative of any such person, to apply for and obtain from the Commissioner or Commissioners of said old or former Court the judgment books, and all other books, papers, writs, documents or other writings and things whatsoever relating to any such judgment or judgments; and in case of refusal on the part of any such Commissioner or Commissioners of the former Court to hand over any such judgment books, papers, writs, documents or other writings, such Commissioner or Commissioners shall be subject to the like penalty and fine as is inflicted in and by the ninety-eighth section of this Act; or any clerk of a former Court neglecting or refusing to hand over and make return of any such books, documents or other writings, besides the value of the papers and documents withheld, the same to be recoverable as in the said lastmentioned clause or section; and the Court constituted under this Act shall have as full and the same power and authority in all respects to issue execution upon, and enforce payment of, any such judgment so remaining unpaid or unsatisfied, or in part unpaid or unsatisfied, as the Court before which the same was originally recovered could or might have issued execution, or have enforced payment of such judgment, had the Act or Acts under which such Court was constituted never been repealed.

Clerk of Court to prepare list of all sums of money belonging to suitors, and post the same in his office, &c.

CI. The clerk of every Court for the recovery of small debts shall, in the month of June in each year, make out a correct list of all sums of money belonging to suitors in the Court which shall have remained for the space of twelve calendar months before the first day of the month of January, specifying the names of the parties for whom and on whose account the same were so paid into Court; and a copy of such list shall be put up and remain during Court hours in some conspicuous part of the Court House, or other place, and at all times in the Clerk's office.

Clerk of Court to make a return annually to Colonial Secretary's office of all fees, &c.

CII. The clerk of each Court for the recovery of small debts to be constituted under this Act shall, annually, on the last Monday in January in each year, send into the office of the Colonial Secretary of this Island, to be by him laid before the Legislature annually, an account and return in writing of all fees which, during the year ending on the thirty-first day of December last preceding the date of each return, shall have been received by him, or by the Commissioners and constables or bailiffs of the Court to which he belongs; and also an account of the amount of all sums during the like

period sued for and recovered in the said Court; and any clerk making default herein shall forfeit and pay to Her Majesty a fine of ten pounds, to be recovered in any of the Courts constituted under this Act.

CIII. Whenever two or more persons shall be jointly sued on any joint or joint and several contract or obligation, and all of such persons shall not reside in the same County, it shall be lawful for the plaintiff in the suit, should he so elect, to bring the same in the County wherein he, and any one or more of the said defendants, may reside; in which case, the summons and execution may issue into any County or Counties wherein either or any of the other defendants reside, although different from the County wherein the cause shall be tried; and such summons and execution shall have the same force and effect in law; and the constable or bailiff serving the same shall have the same authority therewith, as if the same were served or executed in the County wherein the said cause shall be tried.

Mode of procedure against joint defendants, where they reside in different Counties.

*. * Sections 39, 41, 42, 69, 70, 71, 72 and 73 repealed by 25 Vic. cap. 6.; as is also the note to schedule I, being inconsistent with the provisions of said Act.

TABLE OF FEES REFERRED TO IN THIS ACT.

COMMISSIONERS' FEES.

- For issuing every tapias or summons, one shilling.
- For every trial and amount of judgment not above two pounds, one shilling and six pence; from two pounds to eight pounds, three shillings; and from eight pounds to twelve pounds, five shillings; and from twelve pounds to twenty pounds, seven shillings and six pence.
- For every judgment of nonsuit, two shillings and six pence.
- For every subpoena under an attachment, six pence.
- For drawing and engrossing every affidavit, one shilling and six pence.
- For every recognizance, one shilling and six pence.
- For taking depositions of witnesses about to leave this Island, eight pence for every one hundred words.
- For every notice to attend an examination of witnesses, one shilling and six pence.
- Trial and judgment fees not to be allowed, on confession by defendant without trial.

Commissioners' fees.

INSOLVENT COMMISSIONERS' FEES.

- For every order, two shillings.
- For every examination, three shillings.

Insolvent Commissioners' fees

For every mile travelled, coming and returning, four pence.
For taking minutes of examination, four pence for every one hundred words.
For every oath or affidavit, one shilling.

CLERKS' FEES.

Clerk's fees. For every summons, capias, or attachment, one shilling.
For every subpoena, six pence.
For every execution issued at plaintiff's or defendant's request, one shilling.

CONSTABLES' OR BAILIFFS' FEES.

Constables' or bailiffs' fees. For service of every summons, or other process, one shilling.
For levying execution, two shillings and six pence.
For every mile actually travelled going and returning to serve a summons, or other process, or make demand, two pence.
For every mile actually travelled going and returning to serve a subpoena, two pence; and if more than one subpoena in any case, only the one mileage to be charged for the full distance travelled in such cases.
For making arrest under capias, two shillings and six pence.
For levying execution, and sale of goods, &c., thereunder, at the rate of one shilling in the pound, (except where the party shall suffer the full term of imprisonment.)
For advertising property taken in execution, one shilling and six pence.
For levying attachment, two shillings and six pence.
For inventory, service and notice, one shilling.
For taking bond for forthcoming of property, one shilling and six pence.
For making demand on sureties for payment, and oath, one shilling.
In cases where the party against whom the execution or other proceedings have issued shall pay or tender to the constable or bailiff the amount of the debt or sum claimed, and costs, without the same being levied by the constable or bailiff and sale made, the constable or bailiff shall not be entitled to poundage fees.

WITNESSES' FEES.

Witnesses' fees. For every day's attendance, two shillings.
For every mile travelled, coming and returning, three pence.
In the event of witnesses attending in more than one case at the same time, then to be allowed only one half the above fees in each case.

SCHEDULES to which this Act refers.

SCHEDULE (A.)

FORM OF AFFIDAVIT WHEN SUIT IS BROUGHT FOR RENT.

County. } In the Court of Commissioners for the
recovery of small debts at in
the said County.

I *A. B.*, (or *C. D.*, agent for *A. B.*.) do swear, that *E. F.* is justly and truly indebted to me (or to the said *A. B.* if affidavit be made by the agent) in the sum of of lawful money of Prince Edward Island, for [half] a year's rent, (or otherwise, according to the circumstance,) for certain premises, situate, &c. (here briefly describe the premises,) and due upon a certain indenture of lease, dated the day of one thousand eight hundred and of the one part, and of the other part (or if the amount or rent be claimed upon any other demise, whether parol or in writing, or any written or parol lease, or agreement for a lease, or any other wise in respect of the relation of landlord and tenant, as in the Act stated here state shortly the nature thereof,) and that on the day of (being either the day of the date of the affidavit, or some day within seven days previous) no sufficient distress was to be found upon the said premises, countervailing the said arrears of rent then due (or if more than half a year's rent be sworn to be due, then say that "no sufficient distress was then to be found upon the said premises countervailing half a year's arrears of the said rent then due") search having been made therefor on the said premises.

Affidavit where
suit is brought
for rent.

A. B. or *C. D.*

Sworn before me this
day of 186 }
Clerk.

SCHEDULE (B.)

FORM OF SUMMONS.

Prince Edward Island, } In the Court of Commissioners for
County. } the recovery of small debts at
in said County.

A. B., Plaintiff, }
C. D., Defendant, }

Form of Sum-
mons.

You are hereby required to be and appear before the said Court, on the day of next, at the hour of o'clock in the forenoon, to answer the Plaintiff in an action for the sum of for (if in Trover, say in an action of trover for being the value of the property of the said Plaintiff detained by you, as is said), and in default of your appearance you will be proceeded against as to justice shall appertain.

Given under my hand and seal, this day of 186 .
Clerk (L. s.)

To the Defendant *C. D.*

SCHEDULE (C.)

FORM OF SUBPENA.

Prince Edward Island, } By the Court of Commissioners for
County. } the recovery of small debts at
 } in said County.

Form of Sub-
penna.

You are hereby required personally to be and appear before on the day of next, at the hour of o'clock in the forenoon, to testify the truth according to your knowledge, between *A. B.*, Plaintiff, and *C. D.*, Defendant. And herein you are not to fail, on pain of being fined as the law directs.

Given under my hand and seal, this day of 186 .
(L. s.)

To Mr.

C.C.C.

SCHEDULE (D.)

RECOGNIZANCE FOR PAYMENT OF DEBT.

Recognisance
for payment of
debt.

A. B., Plaintiff } We, *E. F.* and *G. H.* do jointly and
C. D., Defendant } severally undertake, that if *C. D.*, the
defendant shall not pay or cause to be paid to *A. B.*, the
plaintiff, the amount adjudged against him the said *C. D.* in
this action, being for debt and costs, on or before
the day of next ensuing, we, or one of us,
will do it for him.

E. F.
G. H.

Taken and acknowledged before }
me, this day of 186 }
Clerk.

SCHEDULE (E.)

RECOGNIZANCE OF APPEAL.

County.

C. D. in error, Plaintiff, } *C. D.* is delivered to bail to prosecute his appeal at the next sitting of Her Majesty's Supreme Court of Judicature, which will be held at on the day of next ensuing.

Recognition of appeal.

To *E. F.*, of in County, (occupation.)
G. H., of in County, (occupation.)

We *E. F.* and *G. H.* do jointly and severally undertake that if *C. D.*, the appellant above named, be condemned in the appeal, and judgment shall be given against him by the Supreme Court, or entered against him by confession, he shall satisfy the costs and condemnation money, or render himself to the custody of the Sheriff of this County, or we will do it for him; and further, that if the said *C. D.* shall in the meantime fraudulently part with any of his goods or chattels, or make any undue or unjust disposition thereof, so as to defeat such judgment, then, unless he shall pay the said costs and condemnation money, we, or one of us, will pay the same for him. This we do severally acknowledge and undertake.

Condition of recognizance of appeal.

Dated the day of A. D. 186

E. F.
G. H.

Taken and acknowledged before me,
 Clerk of the Court.

SCHEDULE (F.)

FORM OF AFFIDAVIT OF APPELLANT OR HIS AGENT.

County. } In the Court of Commissioners for the recovery of small debts at in said County.

C. D. (or *E. F.*, agent of *C. D.*) maketh oath and saith, that on the day of instant, a judgment was given against this deponent (or the said *C. D.*, or for this deponent or the said *C. D.*, if the judgment appealed from be in favor of the appellant) in the said Court in an action wherein *A. B.* was and this deponent (or the said *C. D.*) the for the sum of together with costs of suit (or for costs of nonsuit or otherwise, as the case may be) and that this deponent considering himself (or the said *C. D.*, if the affidavit be by the agent) aggrieved by the said judgment

Affidavit of appellant.

intends to remove the same, by appeal, into Her Majesty's Supreme Court of Judicature, to be held at _____ on the _____ day of _____ next ensuing, and then and there to cause the said judgment, and all proceedings thereon, to be examined in due course of law; and this deponent further saith, that he does not ask for the said appeal for the purpose of delaying the payment of the said judgment, but for the purpose of having the case determined on its merits, in the Supreme Court, as aforesaid.

C. D., or
E. F., agent for *C. D.*

Sworn before me this _____ day of _____ 186 _____ }
Clerk.

SCHEDULE (G.)

FORM OF NOTICE OF APPEAL.

County. } In the Court of Commissioners for the
recovery of small debts, at _____ in
the said County.

Notice of
appeal.

A. B., Plaintiff, } Take notice, that I have appealed from the
C. D., Defendant. } judgment of this Court in this suit, to
Her Majesty's Supreme Court of Judicature, at the term
thereof to be holden at _____ on the _____ day of _____
and that it is my intention to have the said appeal heard and
determined at said term.

Given under my hand the _____ day of _____ 18 _____
C. D., or *A. B.*

To Mr. *A. B.* or *C. D.*

SCHEDULE (H.)

FORM OF BOND TO CONSTABLES OR BAILIFFS, FOR THE FORTH- COMING, ON THE DAY OF SALE, OF GOODS AND CHATTELS TAKEN IN EXECUTION.

Prince Edward Island, } In the Court of Commissioners for
County. } the recovery of small debts at
in the said County.

Form of bond
for the forth-
coming of goods
on the day of
sale, taken in
execution.

A. B., Plaintiff, } Whereas *E. F.*, (constable or bailiff) by
C. D., Defendant. } virtue of an execution issued against the
said *C. D.* hath this day levied upon the following goods and
chattels, namely (state what they are) which goods and chat-
tels are intended to be sold, in pursuance of said execution, on
the _____ day of _____ next:

Now, we the said *C. D.* and also *G. H.*, his surety, hereby jointly and severally bind ourselves, our and each of our executors and administrators, to deliver up to the said *E. F.*, (constable or bailiff, as the case may be) on the said day of _____ (day of sale) all and singular the aforesaid goods and chattels in as good order and condition as the same now are; or otherwise to pay to the said *E. F.* (bailiff or constable) the full value thereof in money, or as much as will satisfy the levy marked on said execution.

SCHEDULE (I.)

FORM OF EXECUTION.

Prince Edward Island, } In the Court of Commissioners for
County. } the recovery of small debts at
in said County.

To the constables or bailiffs of the said Court, or to any of them, and to the keeper of the jail in the said County.

Execution.

Whereas on the _____ day of _____ 18____ judgment was awarded against *C. D.* in favor of *A. B.* for the sum of _____ debt and costs of suit (as the case may be):

These are to require and command you the said constables or bailiffs, or one of you, to levy of the goods and chattels of the said *C. D.*, the said sum, by sale of the said goods and chattels; and, for want thereof, you are hereby commanded to take the body of the said *C. D.*, and him commit to the said jail; and you the said jailer, are hereby required to receive the body of the said *C. D.*, and him there to detain until he satisfy the said *A. B.*, or be otherwise discharged in due course of law, and you, the said constables or bailiffs, are hereby required to make due return of your doings hereunder to this Court, within thirty days from the date hereof.

Given under my hand and seal, this _____ day of _____ 186____
Clerk, (I. s.)

Debt,
Costs,
Execution,
Levy for £

SCHEDULE (J.)

FORM OF AFFIDAVIT OF PARTY DEMANDING EXECUTION IN CASE OF DEBTOR BEING ABOUT TO LEAVE THE ISLAND.

Prince Edward Island, } In the Court of Commissioners for
County. } the recovery of small debts at
in said County.

Affidavit to obtain execution against debtor about to leave the Island.

A. B., Plaintiff, } I, *A. B.*, (or *C. D.*, agent of *A. B.*) do
E. F., Defendant. } swear, that I have been informed and
 believe that *E. F.* is about to depart from this Island forth-
 with, without paying the amount of the judgment given against
 him.

A. B., or *C. D.*

Sworn before me this }
 day of 186 }
 Clerk.

SCHEDULE (K.)

BAILIFF'S OR CONSTABLE'S BOND.

**Bailiff's or Con-
stable's bond.**

Know all men by these presents, that we, *A. B.*, *C. D.*, and
E. F., are, jointly and severally, held and firmly bound unto
 our Sovereign lady Queen Victoria, her heirs and successors,
 in the penal sum of _____ pounds, of good and lawful
 money of this Island, to be paid to our said Lady the Queen,
 her heirs and successors; for which payment, to be well and
 truly made, we bind ourselves, our and each of our heirs, ex-
 ecutors and administrators, firmly by these presents, sealed
 with our seals and dated the _____ day of 186

Whereas the above bounden *A. B.*, hath been, by the Court
 of Commissioners for the recovery of small debts, at
 in the County of _____ County, appointed a Bailiff of the
 said Court, (or, if a Constable, say chosen), to serve and levy
 writs, attachments, summonses, executions, and other proceed-
 ings issuing out of the said Court: Now, the condition of
 the above obligation is such, that if the said above bounden
A. B., as such Bailiff (or Constable, as the case may be),
 shall and do act in accordance with the Acts of the General
 Assembly of this Island, for the recovery of small debts, and
 shall make due service and levy of all writs, attachments,
 summonses, executions, and other proceedings to him entrusted
 to serve and levy; and shall make due return of all such
 writs, attachments, summonses, executions and other proceed-
 ings, at the time therein respectively mentioned for the return
 thereof; and shall, without delay or default, pay over unto
 the respective parties in the said Court, and entitled thereto,
 or into the said Court, all sums of money coming into his
 hands by virtue of such writs, attachments, summonses, exe-
 cutions, and other proceedings, then, and in such case, the said
 obligation shall be void, otherwise it shall remain in full force
 and effect.

Signed, sealed and delivered }
 in the presence of }

A. B. (L. S.)
C. D. (L. S.)
E. F. (L. S.)

SCHEDULE (L.)

FORM OF AFFIDAVIT TO OBTAIN SUMMONS AGAINST AGENT OF ABSCONDING DEBTOR.

County. } I, *A. B.*, or *G. H.*, agent of *A. B.* do swear, Affidavit to obtain summons against agent of absconding debtor.
me (or to the said *A. B.*) in the sum of _____ of lawful
money of this Island, and that I have received information
and verily believe that the said *C. D.* is absent from this Island,
and that *E. F.*, of _____ hath custody of his goods and
chattels, or that he is indebted to him the said *C. D.* (or that
the said *C. D.* hath goods and chattels within this Island.)

So help me God.

Sworn before me this _____ day of _____ 186 _____ } *A. B.*
C. C. C.

SCHEDULE (M.)

FORM OF ATTACHMENT.

Prince Edward Island, } In the Court of Commissioners for
County. } the recovery of small debts at
in said County.

A. B., Plaintiff.

C. D. (sued as an absent debtor), Defendant. }

To the bailiffs or constables of the said Court, or of any other Commissioners' Court for the said County. Attachment.

You are hereby authorized and required to attach the goods and chattels of *C. D.* late of _____ in the said Island, an absent or absconding debtor, to the value of (here insert the debt sworn to, and add these words "with the further sum of _____ as probable costs of suit") wheresoever you may find the same within the said Island (or being at _____ in the custody or power of *E. F.*, as the case may require,) and the same to detain in your custody, to answer the suit of *A. B.* against the said *C. D.* for (here state the cause of action); and you are to make return of your doings hereunder to this Court, at its next sitting after the date hereof.

Given under my hand, and seal of the said Court, this _____ day of _____ 18

Clerk. (L. s.)

By oath for £

SCHEDULE (N.)

FORM OF NOTICE TO AGENT.

Prince Edward Island, } In the Court of Commissioners for
County. } the recovery of small debts, at
in said County.

Sir or Madam ;

Notice to agent

Take notice, that I have attached the goods and chattels specified in the schedule hereunder written, which I am informed are the property of the defendant, in your possession, to answer the suit of the above named plaintiff, for £ debt, and £ costs, the probable costs of suit ; and the attachment is returnable into the said Court on the day of when the case will be heard.

Dated this day of 18

Yours, &c.

J. K.

Bailiff or Constable of said Court.

To Mr. or Mrs.

One horse,
One cart,
One stack of hay,
Six chairs,
One table, &c.

SCHEDULE (O.)

FORM OF BAIL FOR RETURN OF GOODS.

Prince Edward Island, }
County. }

A. B., Plaintiff,
C. D. (sued as an absent debtor, Defendant, }

Bail for return
of goods.

We E. F. and G. H., do jointly and severally promise and undertake that if judgment be given against the defendant in this action, the goods and chattels attached by the plaintiff, and left in the house of the said E. F., namely (here specify the articles) and valued at £ shall be forthcoming and delivered upon demand, to respond the judgment which may be given in this action, and in as good order as the same now are, or the aforesaid value thereof shall be paid by us, or one of us, if so much shall be required to satisfy the judgment and costs of suit.

Witness our hands, this day of 18

E. F.
G. H.

Witness,

J. K., Bailiff or Constable.

SCHEDULE (P.)

FORM OF SUMMONS AGAINST WIFE OR AGENT.

County. } In the Court of Commissioners for the
 recovery of small debts, at
 in said County.

You are hereby required to be and appear before the said Court, at on the day of next, at the hour of o'clock, in the forenoon, to discover on oath what moneys, goods, chattels, and effects (if any) of the above named defendant, you have in your custody, and on his behalf to answer the plaintiff in an action for the sum of for and herein you are not to fail at your peril.

Summons
against wife or
agent.

Given under my hand and seal, this day of 18
 Clerk. (L. S.)

To Mrs. ———, wife of said defendant.
 or Mr. ———, agent, (as the case may be.)

SCHEDULE (Q.)

RECOGNIZANCE FOR THE FORTHCOMING OF GOODS, &c. OF ABSENT DEBTOR, IN HANDS OF AGENT, &c.

Prince Edward Island, } In the Court of Commissioners for
 County. } the recovery of small debts at
 in said County.

A. B., Plaintiff.
 C. D., Defendant, (sued as an absent debtor.) }

We, E. F. and G. H. do jointly and severally promise and undertake that the goods and chattels discovered by the oath of the said E. F., to be in his or her hands or power, belonging to the said defendant, namely (here specify the articles) and valued at shall be forthcoming and delivered up on demand, to respond the judgment given for the plaintiff in this action, and in as good order as the same now are, or the aforesaid value thereof shall be paid by us, or so much as will satisfy the judgment and costs of this suit, now or hereafter to be incurred.

Recognizance
for forthcoming
of goods of
absent debtor.

Witness our hands this day of 18

E. F.
 G. H.

Witness,
 J. K., Commissioner, Bailiff, or Constable.

SCHEDULE (R.)

RECOGNIZANCE OF PLAINTIFF, OR HIS AGENT, DEMANDING
EXECUTION AGAINST ABSCONDING DEBTOR.

County. } In the Court of Commissioners for the
recovery of small debts at
in said County.

Recognizance
of plaintiff de-
manding exe-
cution against
absent debtor.

A. B., Plaintiff. } Whereas judgment hath been awarded in
C. D., Defendant. } favor of the above named *A. B.*, plaintiff
against *C. D.*, an absent or absconding debtor, and he hath
demanded execution thereof against the goods and chattels of
the said *C. D.*, in the custody of *E. F.* Now, we *A. B.* (or
W., agent of *A. B.*) *L. M.* and *S. F.*, do hereby jointly and
severally undertake, that if on a rehearing in this cause, with-
in twelve months, the said *C. D.* obtain a judgment in his
favor, we or one of us will repay to the said *C. D.* the amount
thereof, and all costs that may be adjudged to him on such
rehearing.

A. B. (or *W.*)
L. M.,
S. F.

Taken and acknowledged before me, }
this day of 18 }
Clerk.

SCHEDULE (S.)

FORM OF AFFIDAVIT TO OBTAIN CAPIAS.

Affidavit to ob-
tain capias.

County. } I, *A. B.* do swear that *C. D.* is justly and
truly indebted to me (or if affidavit be
made by agent, then say, I, *E. F.*, agent for *A. B.*, do swear that
C. D. is justly and truly indebted to *A. B.*) in the sum of
of lawful money of Prince Edward Island, for
and that I have been informed and believe that the said *C. D.*
is about to depart from this Island without paying the said
debt.

A. B. or *E. F.*

Sworn before me this }
day of 18 }

J. K. J. P. Commissioner or Clerk.

SCHEDULE (T.)

FORM OF CAPIAS.

To either of the constables or bailiffs of

You are hereby commanded to take *C. D.* in
whatsoever County he may be found, and bring him before *Capias.*
to answer to *A. B.*, in an action for
Hereof fail not.

Given under my hand and seal, this day of 18

E. F., J. P.. Commissioner or Clerk. (L. s.)

SCHEDULE (U.)

RECOGNIZANCE AFTER CAPIAS.

A. B., Plaintiff. } We, *E. F.* and *G. H.* do jointly and several-
C. D., Defendant } ly undertake to produce the body of the *Recognizance*
said *C. D.*, at the sitting of the Court of Commission- *after capias.*
ers at in this County, on the
day of next, to answer the plaintiff in an action
which he hath commenced, and in default thereof, we, or one
of us, will pay to the said plaintiff what shall be then and
there adjudged to him for debt and costs.

E. F.

G. H.

Taken and acknowledged before }
me, this day of 186 }

J. K., J. P., Commissioner or Clerk.

SCHEDULE (V.)

FORM OF EXECUTION AGAINST THE BAIL.

Whereas judgment hath been awarded in favor of *A. B.*, *Execution*
as well against *C. D.* for the sum of debt, and *against bail.*
costs of suit, as against *E. F.* and *G. H.*, who failed to produce
the body of the said *C. D.*, as they had undertaken to do:
These are, therefore to command you that you levy from the
goods and chattels of the said *C. D.*, *E. F.*, and *G. H.*, the sum
of and for want thereof that you take the bodies of
the said *C. D.*, *E. F.* and *G. H.*, and them commit to the jail
of there to remain until they pay the same, or be
discharged by *A. B.*, or otherwise, by order of law.

Given under my hand and seal, this day of 186

J. K., J. P., or Clerk (L. s.)

SCHEDULE (W.)

FORM OF RECOGNIZANCE TO BE GIVEN IN CASE OF APPEAL.

Recognizance
in case of ap-
peal after ca-
pias.

A. B., Plaintiff, } We, *E. F.*, and *G. H.*, do jointly and severally undertake that if the said *C. D.* shall not cause to be given a recognizance for appeal in this case, in manner and form, and within the time by law prescribed, or duly render himself to the custody of *J. K.*, (here insert the name of the Justice of the Peace or Commissioner before whom the cause was tried), we, or one of us, will pay the amount of judgment and costs awarded in this suit.

E. F.
G. H.

Taken and acknowledged before }
me, this day of 18 }
J. K., J. P., or Commissioner.

SCHEDULE (X.)

FORM OF CAPIAS WHEN THE DEBT EXCEEDS TWENTY POUNDS.

To either of the constables or bailiffs of

Capias when
the debt ex-
ceeds £20.

You are hereby commanded to take *A. B.*, of in whatsoever County he may be found, and bring him before me, that he may give security for his appearance at the next term of Her Majesty's Supreme Court, to answer *C. D.*, in an action for Hereof fail not.

Given under my hand and seal, at this day of 18
E. F., J. P., Commissioner or Clerk, (L. S.)

SCHEDULE (Y.)

FORM OF BAIL BOND.

Bail bond to
Sheriff.

Know all men by these presents, that we, are held and firmly bound to Esquire, Sheriff of County, in Prince Edward Island, to be paid to the said Sheriff, or his certain attorney, executors, administrators or assigns; for which payment, to be well and truly made, we bind ourselves, and each of us for himself, our and every of our heirs, executors and administrators, firmly by these presents, sealed with our seals, and dated the day of in the year of the reign of our sovereign lady the Queen, and in the year of our Lord one thousand eight hundred and

The condition of this obligation is such, that if the above bounden do appear before Her Majesty's Supreme Court of Judicature, to be held at on the day of to answer of a plea ; and also to a declaration of the said to be exhibited against the said on his cause of action, then this obligation to be void, otherwise to be and remain in full force and virtue.

Signed, sealed and delivered } ——— (L. S.)
in presence of } ——— (L. S.)

SCHEDULE (Z.)

FORM OF PRECEPT TO SHERIFF.

To the Sheriff of County :

You are hereby commanded to receive herewith into your custody the body of *C. D.*, and him safely keep, so that you have him before Her Majesty's Supreme Court of Judicature, on the day of next coming, to answer *A. B.* in a plea, as by his declaration, hereafter to be filed, shall appear. Hereof fail not. Precept to Sheriff.

Given under my hand and seal, this day of 186
E. F., J. P., or Commissioner. (L. S.)

By oath for the sum of £

SCHEDULE No. 1.

RECOGNIZANCE FOR PAYMENT OF DEBT ON A REHEARING.

A. B., Plaintiff and } We, *E. F.* and *G. H.* do jointly and
C. D., Defendant. } severally undertake, that if a rehear- Form of recog-
nizance for
payment of
debt on re-
hearing.
ing be granted to the said *C. D.*, in this suit, and judgment be thereupon finally given against him, and that if he, the said *C. D.*, shall hereafter be found to have assigned or encumbered or put away any of his goods or chattels with the view of defeating the plaintiff's said judgment so already obtained, or his body shall not be forthcoming to be taken in execution on the judgment finally given against him, we or one of us will well and truly pay and satisfy such final judgment and costs.

E. F.
G. H.

Taken and acknowledged before me }
this day of 18 }
——— Clerk.

CAP. XVII.

An Act to establish a College in Prince Edward Island under the name and style of "The Prince of Wales College," and to repeal certain Acts therein named.

[Passed May 2, 1860.]

Preamble.

WHEREAS by the Act of the General Assembly of this Island, passed in the tenth year of the reign of His late Majesty King George the Fourth, chapter nine, intituled "An Act for the establishment of an academy in Charlottetown," certain persons therein named were incorporated under the name of the "Trustees and Governors of the Central Academy;" and the said Academy thereby established under the management and control of the said Trustees and their successors in office, has since continued in operation, and been the only principal institution of learning in this Island: And whereas our educational institutions are not complete without a high Seminary or College, in which a first class mathematical, classical and philosophical education may be obtained; and it is not desirable that the natives of this Colony should have to seek in other lands the attainment of a collegiate education; and it is considered, that the aforesaid objects and advantages would be obtained and secured, and the interests of education generally throughout the Island greatly promoted, if the said Academy were raised to the character and incorporated with the style and privileges of a College:

Name of College.

Lieut. Governor with consent of Council to fit up College.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that the building in Charlottetown known as the Central Academy aforesaid, shall hereafter be called and known as "The Prince of Wales College;" and it shall be lawful for the Lieutenant Governor, and he is hereby authorized, by and with the advice and consent of Her Majesty's Executive Council of this Island, to cause the same to be fitted up and rendered suitable for the purposes herein-after set forth.

Lieut. Governor to appoint ten Trustees &c., of College.

II. It shall be lawful for the Lieutenant Governor, and he is hereby empowered and required, at an early period after the passing of this Act, by and with the advice and consent aforesaid, to nominate and appoint ten persons, (two of whom shall be members of Her Majesty's Executive Council aforesaid, and five of whom shall be members of the House of Assembly of this Island,) which said persons, together with the Chief Justice, the President of the Legislative Council, and the Speaker of the House of Assembly, (which last named three persons shall be *ex officio* trustees), shall be Trustees and Governors of the said College; and the Lieutenant Governor shall, by and with the advice aforesaid, and

Ex officio Trustees.

by letters patent, under the great seal of this Island, incorporate the aforementioned persons, so appointed trustees as aforesaid, and their successors in office respectively, to be a body politic and corporate in deed and in name by the name and style of the Trustees and Governors of the Prince of Wales College in Prince Edward Island; and by the same name they shall have perpetual succession, and a common seal, and shall be capable in law to sue and be sued, implead and be impleaded, in all Courts and places whatsoever; and they and the major part of them shall have power from time to time to choose from among themselves a president and other officers, as by the said letters patent shall be directed, and make such by-laws, rules and ordinances for the regulation and general management of the said College, and from time to time to revoke or alter the same, as they or the major part of them shall deem expedient, and to assemble together when, where and as often and upon such notice, as to them shall seem fit, for the execution of their trust; and shall also have full power and capacity to purchase, receive, take, hold and enjoy for the use and benefit of the said College, as well grants of public money, legacies, goods and chattels, as lands, tenements and hereditaments.

Name of Trustees.

Power of Trustees.

III. Two of the Trustees to be appointed by virtue of this Act, not being *ex officio* trustees, shall go out of office annually, commencing with the two senior trustees in office; and the Lieutenant Governor, by and with the advice aforesaid, shall have power and he is hereby required, to reappoint the said two trustees, or either of them, if he shall see fit, with the advice aforesaid, so to do, or to appoint two other trustees in their stead.

Two Trustees to go out of office annually.

IV. In case of the removal, death, resignation, absence from the Island, or otherwise, of any of the said trustees so to be appointed by virtue of this Act, other than and besides those mentioned in the last preceding section as going out of office annually, it shall and may be lawful for the Lieutenant Governor in Council, and he is hereby required, to nominate and appoint other Trustees, belonging to the same body, or of the same *status* or class as the persons so removed, dying, resigning, absent from the said Island, or otherwise, respectively belonged to.

On removal, death, &c., of Trustees, vacancies how filled up.

V. The said College shall consist of two chairs or professorships, and so soon as this Act shall go into operation, or as soon thereafter as the aforesaid building shall be fitted up, repaired, completed and furnished, and ready to be opened and used for the purposes of the College, the Lieutenant Governor in Council shall have power to appoint two professors to the said chairs or professorships—one of whom shall be a professor

College to consist of two Professors.

of the Greek and Latin classics, with the French and German languages, also mathematics and natural philosophy—and the other a professor of metaphysics, logic, rhetoric, political economy and history, and who shall also be competent to teach the higher branches of the classics—the latter to have priority in point of *status*—and both to possess first class certificates of qualifications, and if practicable, diplomas from the *senatus* of one or more of the colleges or universities of Great Britain or Ireland, or any of the British provinces of North America.

Salaries of Professors when and how payable.

VI. There shall be paid to each of the said professors, as salary, the sum of three hundred pounds *per annum* of lawful money of the said Island, the same to be paid quarterly, to commence from the time of the appointment of the said professors, and to be drawn by warrant, under the hand and seal of the Lieutenant Governor, upon the Treasurer of this Island, on the production to the Lieutenant Governor of a certificate under the hands of the said trustees, or a majority of them, of the said professor, or professors, conducting himself, or themselves, to the satisfaction of the said trustees.

Trustees, &c., empowered to remove Professors, and to expel, &c., students for misbehaviour.

VII. The said trustees and governors, or the major part of them, shall have power to remove the said professors, or either of them, in case they shall think fit, and expel or suspend any of the students of the said College who shall offend against the by-laws, rules, regulations or ordinances by them made for the due governance of the said College.

Five Trustees to be a quorum.

VIII. At all meetings of the said trustees and governors of the said College, five shall be a quorum.

No Clergyman having charge of a congregation eligible as a Professor.

IX. No clergyman, pastor or minister of any sect or denomination of Christians, having the spiritual charge of any parish or congregation, shall be eligible or be appointed professor in the said College.

Lieut. Governor to be Patron.

X. The Lieutenant Governor for the time being shall be the Patron and Visitor of the said College.

Tuition fees to be fixed by Trustees, &c., of College.

XI. The fees of tuition to be paid by the students attending at the said College for the several branches of education taught therein, shall be fixed and established at such rates as the trustees and governors of the said College shall, from time to time, hereafter deem just and reasonable: provided always, that students from any part of the said Island, living beyond the precincts of the town and royalty of the City of Charlottetown, shall be liable to the payment of but one half the fees or rates of tuition to be paid by students residing within Charlottetown or the royalty thereof.

XII. The tuition fees paid by the students at the said College shall be apportioned one half between the said professors, and the other half to be paid into the general treasury of this Island, to form a fund towards the repairs of the said college.

Tuition fees, how appropriated.

XIII. There shall be six scholarships established in connection with the said College, and the endowment to each of such scholarships shall be twenty pounds per annum, payable from the treasury of this Island, and the candidates for such scholarships shall be selected in the following manner, namely: the School Visitor, as soon as conveniently may be, after the said College shall be opened, shall select six youths from each of the several Counties in this Island (such selection to be made with the consent and approval of the parents), and from such candidates, the Board of Education shall, upon due examination, choose two for each County; which said pupils, so chosen, shall, besides enjoying the privilege and benefit of such endowment as aforesaid, be entitled to the privilege of being taught *gratis* at the said College in any or all of the branches of learning taught therein, for a period not exceeding two years for each pupil or student so chosen as aforesaid; and upon a vacancy occurring at any time in any of such scholarships, the same shall be filled up in way and manner hereinbefore provided, it being the duty of the School Visitor in such lastmentioned case, to select three candidates from the County for which such vacancy may have occurred, from which one pupil or student shall be chosen in the manner aforesaid.

Six scholarships to be established, of £20 each.

Privileges of pupils selected for scholarships

XIV. The endowment to such scholarship as aforesaid shall be paid in half yearly payments to or for the benefit of the pupils who shall become entitled thereto respectively, upon their producing each a certificate of the professor under whom he shall have studied, that he has attended at the said College for six months previously, and also a certificate of at least three of the said trustees, approving of the general conduct of such student respectively while so attending.

Endowment to such, how and when paid.

XV. The Lieutenant Governor shall have power to call meetings of the said trustees whenever he may think proper so to do, and have such other powers, control and authority in and over the said College, as governors of Colleges usually have and enjoy.

Powers of Lt. Governor over college.

XVI. So soon as the Lieutenant Governor in Council shall appoint and incorporate the trustees and governors of the said College as hereinbefore pointed out, the Act of the tenth year of the reign of his late Majesty King George the Fourth, chapter nine, the Act of the sixth year of her present Majes-

Repeals 10 G. 4, cap. 9, and 6th Vic. cap. 21, &c.

ty's reign, chapter twenty-one, and so much and such parts of all other Acts of the General Assembly which relate to the Academy aforesaid, or which are contrary to or inconsistent with this Act, shall be, and the same are hereby repealed.

* * By an order of the Lieutenant Governor in Council, bearing date the 5th day of September, 1860, and by Letters Patent under the great seal of this Island, of the same date, certain persons therein named, and their successors in office, were duly appointed and incorporated trustees and governors of the Prince of Wales College, in terms of this Act.

CAP. XVIII.

An Act to prevent the running at large of horses, neat cattle and sheep, within the royalty of Charlottetown.

[Passed May 2, 1860.]

☞ This Act is in force, but has been printed in the volume of private and local Acts, pursuant to Act 24 Vic., cap. 3.

CAP. XIX.

21 Vic. c. 10 An Act to amend the Act to prevent the running at large of swine in Summerside and vicinity.

[Passed May 2, 1860.]

☞ This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

CAP. XX.

An Act to enable the Controller of Navigation Laws in this Island to grant and issue fishery licenses to citizens of the United States, for vessels built in Prince Edward Island, and owned by them.

[Passed May 2, 1860.]

WHEREAS the permitting citizens of the United States engaged in the fisheries (under certain restrictions hereinafter contained) to own vessels built in this Island, would tend greatly to increase the trade and revenue of this Island:

Conditions upon which a fishing license may be granted to a citizen of the United States.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That on any citizen of the United States producing to the Controller of Navigation Laws in this Island, a builder's certificate, the surveyor's certificate of admeasurement, and making a declaration of ownership for any vessel built in this Island, not exceeding the burden of one hundred and fifty tons, and not previously registered as a British ship, it shall be lawful for the Controller of navigation

laws in this Island, and he is hereby authorized, to grant to any person or persons, being citizens of the United States, a "Fishing License" in the form following :

PRINCE EDWARD ISLAND FOREIGNER'S FISHING LICENSE.

No. of ship,	Date of License,
Name of ship,	When and where built,
No. of Decks,	Build,
No. of Masts,	Galleries,
Rigged,	Head,
Stern,	Frame work.

Form of fo-
reigner's fish-
ing license.

MEASUREMENTS.

	FEET	TENTHS
Length, from the fore part of the stem under the bowsprit to the after side of the head of the sternpost,	-	-
Main breadth to outside plank,		
Depth in hold from tonnage deck to ceiling at midships,	-	-
Name and address of builder,		

TONNAGE.

Tonnage under deck,

Closed in spaces above the tonnage deck, if any, viz :

Spaces between decks,

Poop,

Round house,

Other enclosed spaces, if any, naming them.

Total tonnage,

I, the undersigned, Controller of Navigation Laws of the Port of Charlottetown, in Prince Edward Island, do hereby certify, that the ship, the description of which is prefixed to this my certificate, (given under and by virtue of an Act of the General Assembly of Prince Edward Island, passed in the year of the reign of Queen Victoria, intituled "An Act to enable the citizens of the United States to own Vessels built in this Island, in certain cases,") has been duly surveyed, and that the above description is true, that is the master of the said ship, and that the name, residence and description of the owner, and number of sixty-fourth shares held by are as follows :

Name and residence of the owner.	Number of sixty- fourth shares.
-------------------------------------	------------------------------------

Provided, and it is expressly understood, that this certificate is only intended to give the above named the legal ownership or title in the above named ship, for the purpose of carrying on the fishery, in such manner as foreigners are entitled to carry on the same, and business connected therewith, according to the provisions of the above recited Act, and that, with that exception, the said ship is not entitled to the privilege of a British ship, but only to such rights and privileges as foreign ships are entitled to in British waters.

Dated at Charlottetown this day of one thousand eight hundred and

Controller of navigation laws to keep a record of fishing licenses.

II. Be it further enacted, that the Controller of Navigation Laws in this Island shall keep a book, to be called the "Record of Fishing Licenses," and enter therein such particulars relating to ships licensed under this Act.

Controller to record shares of vessels, &c.

III. Be it further enacted, that on transfer by bill of sale of shares in vessels recorded under this Act, the same, on presentation to the Controller of Navigation Laws, shall be duly entered on such record by him, and such entry shall be endorsed on the fishing license.

Vessels licensed under this Act not to use the British flag

IV. Be it further enacted, that the license granted to any ship under this Act shall not entitle any persons on board such vessel to use the British flag, or to assume a British national character; but such ship shall, nevertheless, be subject to all the provisions, regulations and liabilities to which British ships are by law subject, so long as such ship shall be in British waters or in British possessions.

Vessels licensed becoming the property of a British subject, how to be registered as a British ship.

V. Be it further enacted, that any ship, for which a "Fishing License" has been issued and recorded under this Act, becoming the property of a British subject, may, on the surrender of such license to the Controller of navigation laws, and in compliance with the provisions of the Imperial Act of Parliament, called "the Merchant shipping Act," be registered in this Island as a British ship.

Meaning of the term "ship."

VI. Be it further enacted, that the term "ship," in this Act shall include every description of vessel used in navigation, not propelled by oars, and not exceeding one hundred and fifty tons burden.

Fee for granting license.

VII. The Controller of navigation laws shall receive the sum of ten shillings for every fishing license granted under the provisions of this Act, from the person to whom the same is granted; and the same to be accounted for by the Controller to the government of this Island.

VIII. Nothing in this Act contained shall have any force

or effect until Her Majesty's assent thereto shall be signified, and the notification thereof shall have been published in the *Royal Gazette* newspaper of this Island.

Suspending
clause.

. This Act received the royal assent on the 20th day of November, 1861, and notification thereof was published in the *Royal Gazette* newspaper of this Island, on the 22d day of January, 1862.

CAP. XXI.

An Act to amend the Act for the purchase of Lands on behalf of the Government of Prince Edward Island, and to regulate the sale and management thereof, and for other purposes therein mentioned.

16 Vic., c. 18.

[Passed May 2, 1860.]

WHEREAS the forty-seventh section of the Act made and passed in the sixteenth year of the reign of her present Majesty, intituled "An Act for the purchase of lands on behalf of the government of Prince Edward Island, and to regulate the sale and management thereof, and for other purposes therein mentioned," requires amendment:

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows: That the provisions of the forty-seventh section of the said Act shall extend to and embrace all cases wherein default has been made, or shall hereafter be made, in the payment of the purchase money or the interest thereof, or any part thereof, of any lands sold by the Commissioner of Public Lands under and by virtue of the said Act, although the purchaser or purchasers may not have signed, taken out, or received his, her, or their deed or deeds from the said Commissioner of public lands, any thing in the said Act to the contrary, notwithstanding; and in all cases where the purchaser or purchasers may not have signed, taken out, or received his, her, or their deed or deeds, it shall not be necessary for the Commissioner of public lands to insert the words "and the date of the deed," in any advertisement or advertisements notifying such default or defaults.

47th section of
land purchase
Act to extend
to default made
in payment of
purchase mo-
ney, before
deed given.

CAP. XXII.

An Act for the protection of the salmon fishery.

[Passed May 2, 1860.]

WHEREAS it is deemed expedient to protect and foster the salmon fishery of this Island:

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows: That the fifth, sixth, and

5th, 6th, and
7th sections of

15th Vic. c. 42,
relating to ale-
wives, &c., re-
pealed.

seventh sections of the Act passed in the fifteenth year of the reign of her present Majesty Queen Victoria, intituled "An Act relating to the Alewives' and other fisheries, and the appointment of protectors or overseers of fisheries, and to prohibit the taking of salmon after a certain period of the year, and for certain purposes therein mentioned," be, and the same are hereby repealed.

No salmon to
be caught, sold
or purchased
after 31st Au-
gust in any
year, &c.

II. That no salmon shall be taken or caught on the coast of this Island, nor in any of the bays, rivers, or harbors, or in any fresh water stream or river thereof, after the thirty-first day of August in any year, nor between sunset on any Saturday night and sunrise on the following Monday morning; nor in any place, at any time, by spearing, nets or seines, between the thirty-first day of August in any year, and the first day of April, ensuing; nor shall any person sell, or offer for sale, or purchase between the said last mentioned days, any salmon taken or caught by spearing, nets or seines, between the said thirty-first day of August, and the first day of April in any year.

Penalty for a
breach of any
of the provi-
sions of this
Act, and mode
of recovery
thereof.

III. Any person guilty of a breach of any of the provisions of this Act shall, for each offence, forfeit a sum not exceeding five pounds, and not less than one pound, the same to be recovered, with costs, on the oath of one credible witness, before any one of Her Majesty's Justices of the Peace: and the said fine and costs shall be paid to the party who may sue for and recover the same; and if goods and chattels cannot be found whereon to levy such fine and costs, then the offender shall be committed to the jail of the County wherein the offence was committed for a period not exceeding thirty days.

Continuance
of Act.

IV. This Act shall continue and be in force for ten years from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

CAP. XXIII.

An Act to amend the laws relating to Bills of Lading.

[Passed May 2, 1860.]

WHEREAS by the custom of Merchants a bill of lading of goods being transferable by endorsement, the property in the goods may thereby pass to the endorsee, but, nevertheless, all rights in respect of the contract contained in the bill of lading continue in the original shipper or owner; and it is expedient that such rights should pass with the property; and whereas it frequently happens, that the goods in respect of which bills of lading purport to be signed, have not been laden on board; and it is proper, that such bill of lading

in the hands of a *bona fide* holder for value should not be questioned by the master or other person signing the same, on the ground of the goods not having been laden as aforesaid: Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows:—

I. Every consignee of goods named in a bill of lading, and every endorsee of a bill of lading to whom the property in goods therein mentioned shall pass upon, or by reason of such consignment or endorsement shall have transferred to and vested in him all rights of suit, and be subject to the same liabilities in respect of such goods, as if the contract contained in the bill of lading had been made with himself.

Consignee of goods and endorsee of a bill of lading to have same rights of suit, &c., as if contract made with himself.

II. Nothing herein contained shall prejudice or affect any right of stoppage in *transitu*, or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee by reason or in consequence of his being such consignee or endorsee, or of his receipt of the goods, by reason or in consequence of such consignment or endorsement.

Rights of stoppage in *transitu* &c., not affected by this Act.

III. Every bill of lading in the hands of a consignee or endorsee for valuable consideration, representing goods to have been shipped on board a vessel, shall be conclusive evidence of such shipment, as against the master or other person signing the same; notwithstanding that such goods, or some part thereof, may not have been so shipped, unless such holder of the bill of lading shall have had actual notice at the time of receiving the same that the goods had not been in fact laden on board; provided that the master or other person so signing may exonerate himself in respect of such misrepresentation, by showing that it was caused without any default on his part, and wholly by the fraud of the shipper or of the holder, or some person under whom the holder claims.

Bill of lading, &c., to be conclusive evidence of goods having been shipped against party signing the same, &c.

CAP. XXIV.

An Act to authorize grants of the shores of this Island.

[Passed May 2, 1860.]

. This Act was passed with a suspending clause, but did not receive the royal allowance.

CAP. XXV.

An Act to increase the amount authorized to be loaned by the Land purchase Act. 16 Vic., c. 18.

[Passed May 2, 1860.]

WHEREAS it is deemed necessary to give the Lieutenant Governor in Council power to increase the amount of money authorized to be loaned for the purchase of lands in

and by the twelfth section of the Act passed in the sixteenth year of the reign of her present Majesty, chapter eighteen :

Governor in Council authorized to borrow £10,000 in addition to the £30,000 authorized by 12th sec. of 16th Vic. cap. 18.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That in addition to the sum or loan of thirty thousand pounds mentioned in the said section of the above mentioned Act, it shall be lawful for the Lieutenant Governor in Council to authorize and direct the treasurer of this Island to borrow and receive from any person or persons, bodies corporate or politic, the further sum of ten thousand pounds of lawful money of this Island, for the like purposes, and under and subject to the same rules, conditions and enactments as are prescribed in the said recited Act.

CAP. XXVI.

An Act to authorize the City of Charlottetown to appropriate a certain piece of land as a site for a public Market House.

[Passed May 2, 1860.]

☞ This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

CAP. XXVII.

An Act for the better apprehension of certain offenders.

[Passed May 2, 1860.]

. This Act was disallowed by Her Majesty in Council on the 4th of February, 1861.

CAP. XXVIII.

An Act to give effect to the report of the Commissioners to be appointed on the land question.

[Passed May 2, 1860.]

. This Act was passed with a suspending clause and did not receive Her Majesty's confirmation.

CAP. XXIX.

An Act to naturalize Rachel Nichols Gibson.

[Passed May 2, 1860.]

☞ This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

CAP. XXX.

An Act to incorporate the minister and trustees of Saint Columba's Church, Blair-in-Athol, Saint Peter's Road, Township number thirty-four.

[Passed May 2, 1860.]

☞ This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic., cap. 3.

CAP. XXXI.

An Act to incorporate sundry persons by the name of "the Cascumpec marine railway company."

Amended by
24 Vic., c. 32.

[Passed May 2, 1860.]

☞ This Act is printed in the volume of private and local Acts, pursuant to Act 24 Vic., c. 3.

CAP. XXXII.

An Act to incorporate the Cascumpec temperance hall company.

[Passed May 2, 1860.]

☞ This Act is printed in the volume of private and local Acts, pursuant to Act 24 Vic., c. 3.

CAP. XXXIII.

An Act to incorporate certain persons therein named under the style and title of the Crapaud dredging machine company.

Amended by 24
Vic., c. 30.

[Passed May 2, 1860.]

☞ This Act is printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

CAP. XXXIV.

An Act to alter the Act incorporating the Churchwardens and vestries of the Church of England.

[Passed May 2, 1860.]

☞ This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

CAP. XXXV.

An Act to protect the rights of married women, in certain cases.

[Passed May 2, 1860.]

WHEREAS it is deemed right and just to protect the property of married women from being liable to the debt of their husbands, in certain cases: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

Married woman, after desertion by her husband, may sue in her own name for debts due to her, &c.

I. That in case of desertion, or abandonment by her husband, any married woman, in her own name, and for her own use, may recover and receive from any person indebted or liable to her in her separate capacity, for services performed by and debts due to her, or damages for injuries to herself or her separate property, after such desertion or abandonment; and no receipt, discharge, release, or commutation thereof, given or made by her husband after such desertion or abandonment, shall bar her claim; and if any suit be brought by the married woman on such account, she and her separate property shall be liable for costs of suit as in other cases.


Property acquired by a married woman after desertion, to be free from debts and control of husband

II. When any married woman, deserted by her husband, or compelled to support herself, shall acquire any property, it shall vest in her, and be at her disposal and not subject to the debts, interference or control of her husband.

CAP. XXXVI.

An Act to incorporate the minister and trustees of Saint Andrew's Church, Callander, Little Sands.

[Passed May 2, 1860.]

 This Act has been printed in the volume of private and local Acts, pursuant to directions of Act 24 Vic., c. 3.

CAP. XXXVII.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and sixty.

Executed.

[Passed May 2, 1860.]

CAP. XXXVIII.

An Act to invest the management of the Presbyterian burial ground at Georgetown in the minister and trustees of the Presbyterian Church.

[Passed May 2, 1860.]

 This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic., c. 3.

CAP. XXXIX.

An Act for separating the offices of Clerk of the Executive and Legislative Councils of this Island, and for other purposes therein mentioned.

See 14 Vic., c. 3., & 18 Vic., c. 19.

[Passed March 9, 1860.]

WHEREAS in consequence of the great increase of the public business of this Island, and more especially of the business of Executive Council, it is deemed expedient, that the offices of Clerk of the Executive Council and Clerk the Legislative Council should no longer be held by one and the same person.

Preamble.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that from and after the passing of this Act, the office of Clerk of the Legislative Council of this Island shall be, and the same is hereby constituted, an office separate and distinct from the office of Clerk of the Executive Council of this Island, and the said offices shall not be held by any one and the same person.

Separates the offices of Clerks of Legislative and Executive Councils.

II. That the Road Correspondent of this Island shall cease to be assistant clerk of the Executive and Legislative Councils; and so much of Act passed in the eighteenth year of the reign of Her present Majesty, intituled "An Act relating to the office of road correspondent, and the appointment of assistants in the several offices in this Island therein mentioned," as enacts that the duties of the said office of road correspondent, together with the duties of the assistant clerk of the Executive and Legislative Councils, shall be performed by one and the same person, shall be, and the same is hereby repealed.

Road Correspondent to cease to be assistant Clerk of Executive and Legislative Councils.

III. That so much of the Act passed in the fourteenth year of the reign of her present Majesty, intituled "An Act to commute the crown revenues of Prince Edward Island, and to provide for the civil list thereof, as well as for certain compensations therein mentioned," as enacts, that the office of Clerk of the Executive Council shall be separate and distinct from the office of Colonial Secretary, and shall not be held by one and the same individual, shall be, and the same is hereby repealed.

Repeals so much of the 15th section of 14th Vic., cap. 3, as separates the offices of Clerk of Executive Council and Colonial Secretary.

IV. That it shall and may be lawful for the Lieutenant Governor, or other Administrator of the Government of this Island for the time being, by and with the advice of the Executive Council, to nominate and appoint an assistant Clerk or Clerks of the Executive Council of this Island, who, after having taken the usual oaths of office before the Lieutenant Governor, or other Administrator of the Government of the Island, for the time being, in Council, are hereby authorized

Lieut. Governor in Council to appoint Assistant Clerks of Executive Council.

to exercise and perform all the powers and duties of the Clerks of the said Council, as prescribed by the several Acts of the General Assembly of this Island, or which otherwise by law the said Clerks of the Executive Council are required or authorized to do; and such Assistant Clerk or Clerks, in the performance of their respective duties, shall be subject to the the supervision of the Clerk of the Executive Council.

**Salary of clerk
of Legislative
Council.**

V. That there shall be paid to the person who shall hereafter hold or be appointed to the office of Clerk of the Legislative Council, the sum of seventy-five pounds, as and for the salary of that office, the same to be in lieu of all fees of office, allowances and emoluments whatsoever.

**Salary of 1st
assistant clerk
of Executive
Council.**

VI. That there shall be paid to the person who shall be appointed assistant Clerk of the Executive Council, the sum of two hundred pounds, in lieu of the salary heretofore payable to the Clerk of the said Council, and in lieu of all fees of office, allowances and emoluments whatsoever, heretofore payable to the Clerk of the Executive Council.

**Salary to 2nd
assistant clerk
of Executive
Council.**

VII. That there shall be paid to the person who shall be appointed the second assistant Clerk of the Executive Council, the sum of one hundred pounds, in lieu of all fees and emoluments whatsoever.

**Salaries of
clerks of the
Executive and
Legislative
Councils to be
paid quarterly
by warrants on
the treasury.**

VIII. That the salaries hereinbefore in and by this Act mentioned, and appointed to be paid to the assistant Clerks of the Executive Council, shall be paid quarterly, by warrant on the Treasury of this Island, in the same manner, as the salaries of the public officers of this Island are now paid; and also to be paid to the Clerk of the Legislative Council the said sum of seventy-five pounds, by warrant on the Treasury of this Island, so soon as the committee appointed by the Legislative Council for that purpose shall certify that the said Clerk hath fully completed his Legislative Council duties.

CAP. XL.

14 Vic., c. 12.

An Act to amend the Act for the transfer of the management of the inland posts within Prince Edward Island.

[Passed March 9, 1860.]

Preamble.

WHEREAS it is deemed expedient to amend the Act made and passed in the fourteenth year of the reign of her present Majesty, intituled "An Act to provide for the transfer of the management of the inland posts within Prince Edward Island," by rendering compulsory the prepayment of the postage chargeable on all letters posted in this Island, and addressed to the United Kingdom of Great Britain and Ireland:

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that at and after the expiration of three months from the passing of this Act, and its publication in the *Royal Gazette* newspaper of this Island, all letters and packets which shall be posted in the different post offices within this Island, and addressed to the United Kingdom of Great Britain and Ireland, shall be prepaid.

Letters, &c., posted for Great Britain and Ireland to be prepaid.

II. That if any letters or packets shall be posted in any post office within this Island, and addressed to the United Kingdom of Great Britain and Ireland, and the full rate or rates of postage with which such letters or packets may be chargeable, shall not be prepaid, or shall be paid but in part, such letters and packets shall, notwithstanding such nonpayment or part payment of the postage, be duly forwarded to their destination, and shall be chargeable with the amount of postage due thereon, and in addition thereto, with a fine of sixpence sterling money of Great Britain, for each letter or packet the postage payable on which shall not have been paid, or shall have been paid but in part, which said fines, and all moneys arising therefrom, shall be divided equally between the United Kingdom and this Island.

Where full postage shall not have been prepaid, letters to be forwarded, and to be chargeable with balance of postage and a fine of 6d.

Fine how appropriated.

III. And also, that the Lieutenant Governor of this Island, or the Administrator of the Government for the time being, by and with the consent of the Executive Council, may, from time to time, cause Stamps, with their value printed thereon, to be sold and used as postage.

Lieut. Governor to cause postage stamps to used.

CAP. XLI.

An Act to amend an Act made and passed in the eighteenth year of the reign of her present Majesty Queen Victoria, intituled "An Act to consolidate and amend the laws now in force relating to the office of Sheriff in this Island."

18 Vic., c. 7.

[Passed March 9, 1860.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, that the second, third and seventh sections of the Act made and passed in the eighteenth year of the reign of her present Majesty Queen Victoria, intituled "An Act to consolidate and amend the laws now in force relating to the office of Sheriff in this Island," be, and the the same are hereby repealed.

Repeals 2d, 3d, and 7th Sections of 18th Vic., cap. 7.

I. From and after the passing of this Act, the Chief Justice, or, in his absence, the Master of the Rolls, shall once in every year, that is to say, on the third Monday in April, annually, nominate, in writing, three proper and fit persons in each County of this Island, to be made Sheriffs of the several

The Chief Justice, &c., to nominate three persons for each County for the office of Sheriff.

Sheriff to reside within the County for which he is appointed, &c.

Counties thereof; a copy of which nomination being signed by the said Chief Justice, or the Master of the Rolls, shall immediately thereupon be presented by the said Chief Justice, or Master of the Rolls, to the Lieutenant Governor, or other, the Administrator of the Government for the time being, who is hereby empowered immediately to prick one Sheriff out of the said number for each of the several Counties of this Island to serve as Sheriffs for the ensuing year, each residing within the County for which he shall be appointed Sheriff; and who, upon giving security by bond as hereinafter mentioned, and taking the usual oaths of office, shall receive their commissions, and be invested with all the powers, privileges and authorities of High Sheriffs in each of their respective Counties.

Penalty for refusing to accept the office of Sheriff.

II. Any person nominated and appointed under this Act to the office of Sheriff, after eight days' notice of such, his appointment, refusing to accept the same, shall be liable to a penalty of twenty pounds.

Member of the Legislature may refuse the office of Sheriff.

III. Any member of the Legislature, if appointed, may refuse to accept the office of Sheriff, without being liable to any penalty; provided that such member of the Legislature shall, within eight days after receiving notice of his appointment, signify to the Lieutenant Governor, or Administrator of the Government for the time being, his refusal to serve in the said office.

Upon every refusal, Chief Justice, &c., to make out another list, Lieut. Governor to prick one nominated thereout, &c.

IV. Upon each and every such refusal, the Chief Justice, or in his absence, the Master of the Rolls shall make out another list of proper and fit persons to serve the office of Sheriff as aforesaid, and shall deliver the same as aforesaid to the Lieutenant Governor, or Administrator of the Government for the time being, who is hereby empowered to prick one nominated person thereout, who, upon refusal, after having received notice as aforesaid, shall be liable to the said fine, and so to continue by new returns and appointments, until a person shall be nominated and appointed who will consent to, and actually serve the said office of Sheriff.

Sheriff to remain in office until another appointed.

V. Every Sheriff shall remain in office, until another be appointed and sworn in his stead.

In case of death of Sheriff, new appointment how to be made.

VI. If the Sheriff of any County die whilst in office, another Sheriff shall immediately be appointed for the remainder of the year, in the manner as hereinbefore directed, who shall give the same security and be liable to the same penalties and provisions as other Sheriffs appointed under this Act; but the deputy of the deceased Sheriff shall continue in office, and the sureties of the Sheriff so dying shall be liable for such deputy until such new appointment be made.

VII. Every Sheriff shall, before taking the usual oaths of office, deposit in the Colonial Secretary's Office a bond for the due discharge of the duties of office, to be made to Her Majesty, himself in one thousand pounds, with two sureties each in five hundred pounds, each of which sureties shall justify, on oath, for their respective amounts, before one of the Judges of the Supreme Court of Judicature, and the bonds shall be registered in the Colonial Secretary's office, on the oath of a subscribing witness. When bonds are lost, certified copies shall be receivable in evidence.

Nature and amount of security to be given by Sheriff, &c.

VIII. Any person injured by any act or omission of a Sheriff, may sue on his bond in the name of the Queen, and be entitled to the proceeds, with costs. The defendant shall be entitled to costs, if judgment be given in his favor, but no action shall be brought upon the bond, until judgment shall first have been received against the Sheriff.

Remedy of persons injured by act of Sheriff, &c.

IX. All actions against Sheriffs must be brought within three years from the accruing thereof.

Limitation of actions.

CAP. XLII.

An Act to authorize a cash account to be opened by the Governor in Council with the bank of Prince Edward Island.

[Passed March 9, 1860.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, as follows :

I. The Governor may cause a cash account to be opened at the bank of Prince Edward Island, and may borrow and receive from such bank such sums of money, not exceeding in the whole the sum of ten thousand pounds, as may be necessary for the use of the colony, in such amounts as may from time to time be required, under such conditions, and upon such terms, stipulations and agreements, for the payment and repayment of such moneys, and for the management of such accounts, as by the Governor in Council may be established, prescribed and directed, with the consent of the President, Directors and Company of the said Bank of Prince Edward Island.

Lieut. Governor may cause a cash account to be opened at Bank of P. E. Island.

II. For the repayment of all moneys borrowed under this Act, and for the final payment and discharge of the balance which shall be remaining due and unpaid on the final closing of the accounts with the President, Directors and Company of the said Bank of Prince Edward Island, with interest, the public funds, moneys and credits of this colony are hereby pledged and rendered liable ; subject, nevertheless, to the prior liens, pledges and claims of all treasury warrants and

Public funds &c., subject to certain claims, pledged for the repayment of all moneys borrowed, &c.

debentures, which shall be outstanding and unpaid at the time of contracting any debt or debts, under and by virtue of the provisions contained in this Act.

An account of all sums borrowed, &c., to be laid before Legislature.

III. An Account of all sums borrowed or repaid under this Act, with the date of the loans, and repayments respectively, shall be laid before the Legislative Council and the House of Assembly, each session, so long as such an account is mutually kept open.

CAP. XLIII.

Repealed by
25 Vic., c. 2.

An Act to make certain alterations in the Laws for the performance of statute labor on, and the improvement of, the highways.

[Passed March 9, 1860.]

ANNO VICESIMO QUARTO

VICTORIÆ REGINÆ.

1861.

At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the twenty-first day of February, *Anno Domini* 1861, in the twenty-fourth year of the Reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, Queen, Defender of the Faith:

G. DUNDAS,
Lt. Governor.

CHAS. YOUNG,
President of
L. Council.

D. MONTGOMERY
Speaker of H.
of Assembly.

Being the third session of the twenty-first General Assembly convened in the said Island.

CAP. I.

An Act for taking the census of Prince Edward Island.

Enacted.

[Passed April 9, 1861.]

CAP. II.

An Act to authorize John Hunter to take the additional name of Duvar.

[Passed April 9, 1861.]

☞ This Act has been printed in the volume of private and local Acts pursuant to Act 24th Vic. c. 3.

CAP. III.

23 Vic. c. 10,

An Act to amend the Act to provide for the revising and reprinting of the Laws of this Island.

[Passed April 9, 1861.]

WHEREAS it would tend to the public convenience, and at the same time be a great saving of expense, if the public general Acts of this Island were separated from Acts of a local and private nature, and each class of laws printed and bound up separately, inasmuch as in that case, but a comparatively small number of copies of the latter description of Acts would be required, while the former, in their separate shape, would be more convenient and less voluminous :

Commissioners for reprinting the laws to separate private and local Acts from the general public Acts.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That it shall be part of the duty of the Commissioners appointed under and by virtue of the Act passed in the twenty-third year of the reign of her present Majesty, intituled "An Act to provide for the revising and reprinting of the Laws of this Island," and they are hereby required, before authorizing the reprint of any of the Laws of this Island, to separate all private and local Acts, including all Acts of incorporation remaining in force from the general public Acts passed by the General Assembly of this Island, and to cause the said general public Acts to be printed and bound up in a distinct and separate form from the said private and local Acts.

Duties required of Commissioners in addition to those imposed by 23d Vic. c. 10, sec. 4.

II. In addition to the duties required to be performed by the said Commissioners, as set forth in the fourth section of the said recited Act, the said Commissioners shall be required to insert in their proper order in the volume or volumes of the said public general statutes, to be printed under their superintendence, the titles of all the private or local Acts remaining in force which shall have been removed from said volume or volumes, and printed separately, as aforesaid, distinguishing such Acts by a suitable note or reference in the margin of such titles.

Repeals part of 3d sec. of 23d Vic. c. 10.

III. And whereas it is desirable to expedite the printing of the laws under the authority of the said recited Act, and for that purpose to limit the notice required to be given in calling for tenders for the contracts for printing, to a shorter period than that allowed by said Act: Be it therefore enacted, that so much of the said Act of the twenty-third Victoria, chapter ten, as requires three months for such tenders to be given, shall be, and the same is hereby repealed; and in lieu and instead thereof, it shall be lawful and sufficient for the said

Commissioners to cause three weeks' notice for such tenders to be given in the *Royal Gazette* newspaper of this Island.

IV. It shall be part of the duty of the said Commissioners, and they are hereby required to make a proper and full analytical index to the said public general Statutes, and the said private or local Statutes, to be printed and bound up therewith respectively, and to cause nine hundred copies of the said general Statutes and index, and one hundred and fifty copies of the said private or local Statutes, with a marginal epitome to each Act respectively, to be printed in the style of the revised Statutes of Nova Scotia or New Brunswick, or of the Statutes at large of Canada, or in such other style as they may deem suitable or proper, and also to be bound or half bound in such style and manner as they may deem best adapted for the purpose.

Commissioners
to prepare ana-
lytical index,
&c.

V. And whereas the duty required to be performed by the said Commissioners, in and by the sixth section of the said recited Act, in making a deposit of certain laws of this Island in certain specified public offices, within a specified time, has been found impracticable, in consequence of an error having inadvertently crept into the said clause, by which the Acts of the session of one thousand eight hundred and sixty-one, which session had not then arrived, were required to be deposited as part and parcel of such laws: Be it therefore enacted, that so much of the said sixth section of the said recited Act as required the said Commissioners within six months after the passing thereof to deposit in the several offices therein mentioned, a full copy of the laws of this Island, being the volumes thereof published in the year one thousand eight hundred and fifty-two, and the several Acts passed since the year one thousand eight hundred and fifty-one, to the session of one thousand eight hundred and sixty-one, inclusive, and published annually by the Queen's printer, shall be and the same is hereby repealed; and the said Commissioners, instead and in lieu thereof, shall be, and they are hereby required to deposit in the said several offices mentioned in the said sixth section, the whole of the laws therein particularly specified and set forth, within a period of eight months after the passing of this Act, any thing in the said recited Act to the contrary notwithstanding.

Repeals part of
the 6th sec. of
23d Vic. c. 10.

Commissioners
to deposit co-
pies of the laws
in the public
offices within
eight months
from the pass-
ing of this Act.


VI. Section nine and such other parts of the said hereinbefore recited Act of the twenty-third Victoria, chapter ten, as are contrary to or inconsistent with this Act, shall be, and the same are hereby repealed.

Repeals 9th sec
of 23d Vic. cap.
10, &c.

CAP. IV.

An Act to incorporate the Gulf express and telegraph Company."

[Passed April 9, 1861.]

 This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

CAP. V.

See 26 G. 3, c. 9;
25 G. 3, c. 8;
7 Vic. c. 13;
12 Vic. c. 2;
and 23 Vic. c. 7.

An Act in amendment of and addition to the Acts relating to judgments entered of record in the Supreme Court of judicature.

[Passed April 29, 1861.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, as follows:

Execution may
issue on judgments
after death of party
defendant,
without proceeding
to revive same, as
in this Act mentioned.

I. Where the person against whom any judgment shall have been or shall hereafter be entered up of record in Her Majesty's Supreme Court of Judicature of this Island, shall have died, or shall hereafter die, whilst the judgment against him, or the amount thereby secured, or any part thereof, shall remain unpaid and unsatisfied, then it shall be lawful, after the passing of this Act, for the party plaintiff in the suit or case, wherein such judgment shall have been or shall hereafter be entered at any time, on application to the Court as hereinafter mentioned, to have execution of all and singular the lands, tenements and hereditaments of or to which such deceased person against whom such judgment may have been or shall hereafter be entered, was, may have been, or shall be, at the time of entering up such judgment, or was, may have been or shall be at any time afterwards in his life time seized, possessed or entitled for any estate or interest whatsoever, at law or in equity, whether in possession, reversion, or remainder, or expectancy, or over which such person at the time of entering up such judgment, or any time afterwards had or shall have any disposing power which he might, without the assent of any other person, exercise for his own benefit, in so far as the same may have been or shall hereafter be bound by such judgment, without the necessity of filing a bill in Chancery, or reviving the judgment by *scire facias*, or taking any other proceedings save as in this Act mentioned: provided always, that the said party plaintiff shall nevertheless be still entitled, should he elect so to do, to pursue all other remedies at law or in equity for the recovery of his claim, which he might have done, if this Act had not been passed.

Mode of proceeding to obtain rule nisi

II. The plaintiff desirous to obtain such execution as hereinbefore mentioned, shall apply to the Supreme Court, on affidavit, stating the death of the party against whom the

judgment was entered, and the amount due upon, or secured by the same, whereupon the Court may order a rule *nisi* to be issued, calling upon all parties interested in the lands formerly belonging to the deceased party, to come forward and show cause, if they can, why execution should not be issued against such lands of the deceased party, or his former right, title or interest therein; which rule shall be returnable as the Court may direct, but not within a less period than thirty days after the same shall be granted, and a copy thereof shall be advertised in the *Royal Gazette* newspaper, twice at least within such thirty days; and if, at the return of such rule *nisi*, no cause shall be shown to the satisfaction of the Court against the same, then the Court shall grant a rule absolute for the issuing of such execution, and the same shall, thereupon, at the instance of the plaintiff, at any time thereafter, issue against the lands, tenements and hereditaments of the deceased person so liable to be taken in execution, as in the last preceding clause of this Act mentioned; and such lands, tenements and hereditaments shall be levied upon, appraised and sold, and advertised in the same way and manner, and for the same length of time as is required in other cases where lands are taken in execution and sold for debt under the provisions of the Act of the thirty-fifth year of King George the Third, chapter eight, and other Acts in amendment thereof or addition thereto.

why execution
should not is-
sue.

Rule absolute
when granted
for issuing ex-
ecution against
lands, &c. of
deceased.

III. Such writs of execution shall be sued out of the said Supreme Court, as may by such Court be deemed necessary or expedient for giving effect to the provisions hereinbefore contained, and in such forms as the Judges of such Court shall from time to time think fit to order; and the execution of such writs shall be enforced, and the lands and tenements, or other property taken thereunder, shall be levied upon, appraised, advertised and sold, in such and the same way and manner, as the execution of writs of execution against the lands, tenements and other property of persons living is now enforced, or as near thereto as the circumstances of the cases will admit.

Nature and
form of such
writs of execu-
tion to be or-
dered by
Judges of Su-
preme Court.

IV. If any person interested in such lands and tenements so to be taken in execution as the executor, administrator, assignee or devisee of the party deceased, against whom the judgment was or shall be entered, shall, by notice in writing delivered to the Sheriff (wherein shall be stated the capacity in which he claims to be interested) at least twenty days previous to the day of sale, require that certain portions of the lands and tenements levied upon and advertised to be sold, should be first sold, the Sheriff shall cause the same to be first put up for sale, and if a sufficient sum should be realized therefrom to satisfy the execution, interest and expenses, no

What lands to
be first offered
for sale.

other part of such lands shall be sold ; otherwise he shall proceed with the sale of the remainder.

Sheriff to deliver deed to purchaser.

V. The Sheriff shall deliver to the purchaser at sale under such execution, a deed of the lands and tenements taken and sold thereunder, which shall be sufficient to convey to the purchaser all the lands and tenements therein described of the party deceased, at any time bound by or subject to the judgment, and to the extent of the estate, right, title and interest which the deceased party may have had or possessed therein since the date of the judgment.

Overplus arising from sale to be paid as ordered by the Court.

VI. Where the sum realized by any such sale shall be more than sufficient to satisfy the execution and necessary expenses attendant upon obtaining the same, and on the levy and sale thereunder, the surplus shall be paid by the Sheriff to such person as may be directed by an order of the Supreme Court, or any Judge thereof.

Contents of affidavit necessary to revive judgment against party supposed to be living.

VII. Where application shall be made to the Supreme Court to grant a writ of *scire facias* to revive a judgment against any party living, or supposed to be living, it shall be sufficient for the plaintiff, or other person applying on his behalf, to state in the affidavit on which the application shall be grounded, the amount due upon the judgment ; and also that he believes the party defendant, against whom the judgment shall be sought to be revived, to be really and truly living ; whereupon the Court may order the writ to issue, unless some cause appear to the Court to require it for the ends of justice to withhold the same.

Party executing warrant of attorney may dispense with the two years' notice in case of freehold, &c.

VIII. Any party executing a warrant of attorney on which judgment is proposed to be, or can be entered, may, if he think fit, in the defeasance to the warrant of attorney, dispense with the two years' notice or advertisement of sale, in the case of freehold estates, or the one year's notice or advertisement of sale in the case of leasehold estates as is now by law prescribed, and limit the time to be notified or advertised in either case to any lesser period, not less, however, than six months ; and any lands or tenements, whether leasehold or freehold, taken in execution under any such judgment entered on any such warrant of attorney, as in this section mentioned, shall and may be sold, after notice or advertisement of sale shall have been given for the length of time specified in such warrant of attorney.

Leasehold estates, &c., may be bound in the same manner as freeholds under 12 Vic. cap. 2, &c.

IX. Leasehold estates and interests in lands shall also be bound by judgments entered up of record in Her Majesty's Supreme Court of Judicature in the same way and manner, and to the same extent as freehold and other estates, and interests therein are bound or affected thereby under the provi-

sions of the Act passed in the twelfth year of the reign of her present Majesty, chapter two, or other Acts relating to judgments in the Supreme Court, in all cases wherein the defeasance to the warrant of attorney on which any such judgments shall be entered, it shall be declared by the party defendant who executed the same, that it is his intention and desire that his leasehold property should be bound by the judgment; and such leasehold estates and interests shall, when afterwards taken in execution, be levied upon, advertised and sold as now by law required and pointed out respecting leasehold estates.

Such leaseholds when taken in execution, how to be sold, &c.

X. The party plaintiff, or his attorney shall, where the judgment is intended to bind leasehold estates under the provisions of the last preceding section, deliver to the prothonotary, with the warrant of attorney, a note or docket in writing, notifying him thereof; and the prothonotary shall, on entering up the judgment, and noting the same in the index books, make a minute or note opposite the same, shewing that it is intended to bind leasehold estates thereby as aforesaid.

Where judgment intended to bind leasehold plaintiff how to proceed.

XI. Wherever the word plaintiff is used in this bill, it shall be taken to mean and include the party originally plaintiff in a suit or judgment, or his executors, administrators, or assigns, or those who shall or may legally represent him or them.

Meaning of the word 'plaintiff' in this Act.

CAP. VI.

An Act for raising a revenue.

Expired.

[Passed April 29, 1861.]

CAP. VII.

An Act for the preservation of the alewives' fisheries in this Island.

[Passed April 29, 1861.]

WHEREAS the alewives' fisheries are of considerable benefit to this Island, and it being therefore desirable that due protection should be given to the said fisheries:

I. Be it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act no person or persons shall set any net or nets, in the day time, for the purpose of catching alewives, or shall leave any such net or nets set in any of the bays, harbors, rivers, creeks, or inlets in this Island between sunrise and sunset; and any person or persons who may feel aggrieved thereby, may, and they are hereby required, to give notice to the owner or owners thereof, or to any other person or persons intrusted with or

Nets not to be set in the day time, nor left so set between sunrise and sunset.

Penalty on party offending herein.

concerned in such net or nets, to remove the same forthwith; and on refusal or neglect to proceed immediately to take up all such nets, they shall be subject and liable to a penalty not exceeding twenty shillings for the first offence, and for the second and every future offence shall be liable to a fine not exceeding five pounds; the said fines to be recovered and disposed of as hereinafter mentioned: provided always, that this Act shall not subject any person to a fine or penalty, when gales of wind or stress of weather shall render it impracticable, or endanger the life of any person or persons to remove such net or nets in the day time as may have been previously set.

Penalty on persons wilfully injuring nets

II. Any person or persons who shall wilfully or designedly injure or destroy any net or nets set or placed for the purposes aforesaid, and properly buoyed or secured, shall for every such offence forfeit and pay to the party injured a sum not exceeding five pounds, together with reasonable costs, to be recovered as hereinafter mentioned.

Nets, &c., not to be set outside mouth of streams within 200 yards therefrom, nor inside within 50 yards of such entrance, &c.

III. From and after the passing of this Act, it shall not be lawful to, or for any person or persons at any time, either day or night, or at any season of the year, to set any net or nets, seine or seines outside the mouth or entrance of any of the streams or inlets in this Island within a nearer distance therefrom than two hundred yards, nor inside the entrance of any such streams or inlets within the distance of fifty yards inwards from the inner side of the entrance, that is to say, from the point where the stream or rivulet unites with the pond or lake; nor shall it be lawful for any person or persons at any time, day or night, or at any season of the year, to set any net or nets, seine or seines across any other part of such inlets or streams so as to prevent fish from passing into and up such streams; and any person or persons offending herein shall be liable to a penalty not exceeding five pounds, the same to be recovered with costs in the manner hereinafter provided.

Penalty on person offending.

Lieut. Governor may appoint overseers or protectors of alewives and other fisheries.

IV. On application being made by not less than twenty persons resident near to any fishing station in this Island, including two Justices of the Peace, it shall and may be lawful for the Lieutenant Governor of this Island, by and with the advice and consent of Her Majesty's Executive Council of this Island, if he shall think fit, to nominate and appoint one fit and proper person to be overseer or protector of the alewives and other fisheries of such station or place; and every such person so appointed shall be entitled to receive from the public treasury of this Island the yearly sum of five pounds, upon his producing a certificate on or before the last day of January in each year from two of the nearest Justices of the Peace, stating that to the best of their knowledge he has faithfully performed the several duties enjoined upon him by this Act: provided

always, that every overseer or protector of the alewives' and other fisheries heretofore appointed, and holding that office at the passing hereof, shall be deemed to be an overseer or protector of such fisheries under this Act; and provided also, that at no one time shall any greater number of protectors or overseers than ten be appointed to receive allowance under this Act, including those in office at the passing of the same.

Protectors, &c. heretofore appointed and now acting, confirmed under this Act.

V. It shall be the duty of the several persons now appointed protectors or overseers as aforesaid, and all persons hereafter to be appointed to that office under this Act, annually, when they apply for their allowance hereunder, to furnish a return in writing to the Government of the quantity and descriptions of fish during the then previous year caught or taken within or near to their respective precincts; and they are hereby severally authorized and required, within such their precincts, at all times of the year, by all legal ways and means, strictly to enforce the provisions of this Act, and of all other Acts of the General Assembly of this Island, regulating the fisheries of this Island and the setting of nets in the bays, rivers and streams thereof.

Duty of overseers.

Provisions of this and other Acts to be strictly enforced.

VI. It shall be the further duty of every such overseer or protector as aforesaid, after it shall be ascertained that the alewives have come up into the ponds and creeks, to proceed to the neighborhood thereof, and to the most usual and general fishing places within their respective precincts or stations, and continue to be there, or at such place or places at which they may consider it most necessary to attend, for a period not less than eighteen working days, and to warn persons against and prevent the improper and unlawful setting of nets or seines; and it shall be lawful for any person aggrieved by the illegal or improper setting of nets or seines, to notify the nearest overseer or protector thereof, who is thereupon hereby required to investigate the circumstances, and if he shall find, that the nets or seines have been illegally or improperly set, he shall and is hereby authorized to abate and remove the same, and to prosecute the person to whom they belong, or who shall have set them, for the penalties imposed by this or any other Act in force relating thereto.

Further duty of overseers.

Persons aggrieved may notify nearest protector, who is to investigate the circumstances, &c.

VII. There shall be furnished to each person now appointed or hereafter to be appointed protector or overseer as aforesaid a copy of this Act.

Copy of Act to be furnished each overseer.

VIII. If any person now appointed, or who shall hereafter be appointed, and shall accept the office of overseer or protector of the alewives' and other fisheries, shall wilfully refuse or neglect to perform any of the duties enjoined upon him by this Act, he shall forfeit and pay a sum not exceeding ten pounds, together with reasonable costs; the same to be recover-

Penalty on protector for neglect of duty

ed before any two Justices of the Peace, in the name of Her Majesty, with costs; and to be paid into the treasury to and for the use of Her Majesty's Government.

Mode of recovery of penalties imposed by this Act.

IX. All fines and penalties arising under and by virtue of this Act shall be recovered, with costs, on the oath of one or more credible witness or witnesses before any two of Her Majesty's Justices of the Peace or two Commissioners for the recovery of small debts, being Justices or Commissioners for the county or district wherein the offence shall have been committed, and shall be paid to the party who may sue for and recover the same; and if goods and chattels cannot be found whereon to levy such fines and costs, then the offender or offenders shall be committed to the jail of the county wherein the offence was committed, for a period not exceeding sixty days, there to remain, without being entitled to the benefit of any Act made for relief of insolvent debtors, or for granting the limits of jails in this Island.

Penalty for setting nets on Sunday.

X. Any person or persons setting or taking up any net or nets on the Sabbath day shall be liable to the penalty imposed by the laws of this Island for a violation of the Sabbath day.

Act 7th Vic., c. 29, 15th Vic., c. 42; 18th Vic., c. 29, and 22nd Vic., c. 7, hereby repealed.

XI. An Act made and passed in the seventh year of the reign of her present Majesty, chapter twenty-nine; an Act made and passed in the fifteenth year of the same reign, chapter forty-two; an Act made and passed in the eighteenth year of the same reign, chapter twenty-nine; and an Act made and passed in the twenty-second year of the same reign, chapter seven, are hereby severally repealed.

Continuance of this Act.

XII. This Act shall continue and be in force for ten years from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

CAP. VIII.

An Act to change the constitution of the Legislative Council by rendering the same elective.

[Passed April 29, 1861.]

* * This Act was passed with a suspending clause and did not receive Her Majesty's assent.

CAP. IX.

14 Vic. c. 12.

An Act to further amend the Act for the transfer of the inland posts within Prince Edward Island.

[Passed March 29, 1861.]

BE it enacted by the Lieutenant Governor, Council and Assembly, That at and after the expiration of one month

from the passing of this Act, and its publication in the *Royal Gazette* newspaper of this Island, all letters and packets which shall be posted in the different post offices within this Island, and addressed to either of the Colonies of Canada; Nova Scotia or New Brunswick, shall be prepaid.

Postage on letters, &c., to Canada, Nova Scotia and New Brunswick, to be prepaid.

II. That if any letters or packets shall be posted in any post office within this Island, and addressed to either of the Colonies of Canada, Nova Scotia, or New Brunswick, and the full rate or rates of postage with which such letters or packets may be chargeable, shall not be prepaid, or shall be paid but in part, such letters and packets shall, notwithstanding such nonprepayment or part payment of the postage, be duly forwarded to their destination, and shall be chargeable with the amount of postage due thereon; and in addition thereto, with a fine of two pence sterling money of Great Britain for each letter or packet, the postage payable on which shall not have been paid, or shall have been paid but in part; which said fines, and all moneys arising therefrom, shall be divided equally between the Colony in which the said letter or packet is addressed and this Island.

Consequence of not prepaying full postage on letters.

Appropriation of fines.

III. That the postage collected on all letters and packets mailed and prepaid within this Island, and addressed to any other Colony or State, shall be retained to and for the use of the Government of this Island.

Postage prepaid in this Island to be retained.

IV. The Governor in Council shall have full power and authority to adopt and carry out a system for the transmission of small parcels by mail through the post offices within this Island, and to fix and regulate the rates and charges at which such parcels shall be conveyed and carried.

Lt. Governor, &c. to arrange for transmission of parcels.

C A P . X .

An Act to consolidate and amend the Laws relating to grand and petit jurors in this Island.

[Passed April 29, 1861.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, as follows:

I. That an Act made and passed in the sixteenth year of the reign of her present Majesty, chapter six; an Act passed in the eighteenth year of the same reign, chapter six; an Act passed in the twenty-first year of the same reign, chapter two; and an Act passed in the twenty-third year of the same reign, chapter eleven, are hereby severally repealed.

Acts 16 Vic. c. 6; 18 Vic. c. 6; 24 Vic. c. 2, and 23 Vic. c. 11, repealed.

Who liable to serve as jurymen on trials of treasons, felonies, &c.

II. That from and after the passing hereof, all persons living in their respective Counties, not hereinafter exempted, shall be liable to serve as jurymen on all trials of treasons, felonies, breaches of the peace, or other criminal offences, as also on all trials of property, whether local or transitory; provided always, that they be liege subjects of Her Majesty, and have resided twelve months previous to their being summoned as jurors within this Island.

Persons exempt from serving on juries.

III. Provided always, that the members of the Executive and Legislative Councils, and of the House of Assembly, and the officers thereof, together with the Colonial Secretary, Colonial Treasurer, Registrar of Deeds, Commissioner of public lands, the officers of Her Majesty's army and navy, of the departments of customs and excise, ministers of religion, attorneys, physicians, surgeons, keepers of lighthouses, licensed ferrymen, professors and masters of colleges, teachers of academies and licensed schoolmasters, when employed as such, postmasters, persons above sixty-five and under twenty-one years of age, shall be exempt from service on juries; and no person shall be liable to serve on grand or petit juries more than once in two years.

Charlottetown fire engine companies, how to be exempt.

IV. Every member of the several Charlottetown fire engine companies shall also be exempt from serving as a grand or petit juror; provided such member shall, on being duly summoned, or within twenty-four hours afterwards, signify to the officer by whom he shall be summoned, his desire to claim his exemption.

When and how list of grand and petit jurors for Queen's County to be prepared, &c.

V. The High Sheriff for Queen's County shall, at the sittings of the Supreme Court therein every year in the months of June and January respectively, return to the Prothonotary thereof two lists, one containing the names of one hundred persons selected by him, qualified by their station and intelligence to serve as grand jurors, and the other containing the names of two hundred persons selected by him, and qualified as aforesaid, to serve as petit jurors, all to be resident within the County, and so chosen that, as far as may be, they may be supplied from all parts of the said County; some one or more of such jurors to be selected from each of the townships in the said County: provided always nevertheless, that at the next following term of the said Court, after the passing of this Act, the grand and petit jurors for the said County shall be summoned by the said Sheriff in the manner at present in practice; and the neglect of such summons is hereby declared to be subject to the punishments and consequences set forth in the Acts now in force relating to jurors.

When and how lists of grand

VI. The High Sheriff of Prince County shall, in like manner, hand to the deputy Prothonotary of the Supreme Court

therein, at the sittings of the said Court, every year, in the months of June and October respectively, similar lists of persons qualified and selected, as in this Act mentioned, to serve as grand and petit jurors therein, save that the list of grand jurors for Prince County shall not be required to contain more than sixty-five names, nor the list of petit jurors more than one hundred and thirty names: provided always, nevertheless, that at the next following term of the said Supreme Court, after the passing of this Act, the grand and petit jurors for the said County shall be summoned by him in the manner at present in practice; and the neglect of such summons is hereby declared to be subject to the punishments and consequences set forth in the Acts now in force relating to jurors.

and petit jurors for Prince County, to be prepared, &c.

VII. The High Sheriff of King's County shall, in like manner, hand to the deputy Prothonotary of the Supreme Court in the said County, every year, at the sittings of such Court in the months of March and July respectively, similar lists of persons qualified, and selected, as in this Act mentioned, to serve as grand and petit jurors therein, save that the list of grand jurors for King's County shall not be required to contain more than sixty-five names, nor the list of petit jurors to contain more than one hundred and thirty names: provided always, nevertheless, that at the following term of the said Court, after the passing of this Act, the grand and petit jurors for the said County shall be summoned by the said Sheriff in the manner at present in practice; and the neglect of such summons is hereby declared to be subject to the punishments, and consequences set forth in the Acts now in force relating to jurors.

When and how lists of grand and petit jurors for King's County to be prepared, &c.

VIII. When such lists shall have been returned to the respective Prothonotaries at the times hereinbefore directed, each of those officers shall, in open Court, draw from each list respectively, the number of persons required to serve on each jury during the next ensuing term, and shall therefrom make a list of a sufficient number of the names first drawn from each list respectively, rejecting those of such persons who shall have served on either jury within the two years next preceding such drawing; which lists shall be signed by the presiding Judge, who shall then seal up and deliver the same to the Prothonotary; and the said Prothonotary shall hand the same, annexed to a *venire*, to the Sheriff at least thirty days before the then next sitting of the Supreme Court; and the Sheriff shall thereupon cause all persons named in such lists to attend on summons, to be served on each of them respectively at least six days before such attendance is required.

Prothonotary to draw a sufficient number of names for grand and petit jurors, &c.

How jurors to be summoned.

IX. The high Sheriff shall, on going out of office, deliver a copy of such list to his successor in office, who shall amend, correct, and add to such lists as occasion may require.

Sheriff going out of office to deliver copy of list to his successor.

Special juries
how obtained
and struck.

X. Upon any motion made in the Supreme Court on behalf of Her Majesty, or on motion of any prosecutor or defendant in an indictment or information for any misdemeanor, or information in the nature of a *quo warranto*, or on motion of any plaintiff or defendant in any cause depending in the said Court, the Justices are required and authorized to order a jury to be struck before the proper officer for the trial of any issue in such manner as heretofore special juries have usually, before the passing of this Act, been struck in the said Court upon trials at bar; and in all cases, the party who shall apply for a special jury shall not only pay the fees for striking such jury, but shall also pay all expenses occasioned by the trial of the cause by such special jury, and shall not have any other allowance for the same upon taxation of costs than such party would be entitled to, in case the cause had been tried by a common jury.

Expense of
special jury to
be paid by party
applying for
same.

Jury impanelled not to
be discharged
because time
for attendance
shall have expired.

XI. A jury which shall be impanelled for the trial of a cause which shall go over the time specified for the attendance of such jury, shall not on that account be discharged.

Jury panel to
be called on
first day of term

XII. The whole panel of jurors shall be called on the first day on which they are bound to attend, and before any cause to be tried by a jury shall be proceeded in; and all jurors not then in attendance shall be fined.

Names of jurors
not attending
to be returned
to the boxes,
&c.

XIII. If a sufficient number of grand or petit jurors do not attend, or if it is probable, that a sufficient number may not attend, the names of those who do not attend shall be returned to the boxes, as if they had not been drawn; and the Prothonotary shall draw the names of others liable to serve, and, if necessary, cause the Sheriff immediately to summon those whose names have been so drawn to attend forthwith.

Fine imposed
on grand jurors
for nonattendance.

XIV. Every person so summoned as aforesaid to serve as a grand juror, and who shall not appear after being openly called three times, upon oath being made by the summoning officer that he has been lawfully summoned, shall pay a fine of not more than five pounds, nor less than two pounds, as the presiding judge or judges shall order, after ascertaining if there be any adequate cause for his nonattendance; and in like manner, every petit juror shall be fined at the discretion of the said judge or judges, for each several default, the sum of five shillings; provided that the whole in one term shall not exceed three pounds.

Petit jurors to
be fined for non
attendance.

Mode of recovering
fines.

XV. All fines for nonattendance of jurors shall, if not paid forthwith, be levied, together with the Sheriff's costs and expenses, by warrant of distress and sale of the goods and chattels of the party against whom the same is granted; and the Prothonotary shall, on the last day of each term, or

within three days thereafter, make out and deliver to the Sheriff a warrant against each party liable to pay any fine or fines; and the Sheriff shall proceed to execute the same, and shall pay the amount of the fines so levied, into the hands of the Prothonotary, to be paid by him into Her Majesty's treasury, as directed in and by this Act.

XVI. And all fines so levied shall, after costs have been deducted, be paid by the Sheriff into the hands of the said Prothonotary, who shall also make a return of the causes (if any) why such fines have not been levied; and the Prothonotary shall pay into Her Majesty's treasury all sums so received by him, with a statement thereof, together with an account of fines which it has not been possible to collect, and the causes of such impossibility, which sums and returns shall not be forwarded to the treasury, until the conclusion of the next ensuing term after such default.

All fines to be paid into the treasury, &c.

XVII. The Court or presiding Judge may relieve any juror from such fine in whole or in part, on sufficient reason for his absence being shewn, on oath; which, if in writing, may be made before a Justice of the Peace.

Court, &c., may remit fine on sufficient cause shewn on oath.

XVIII. The Court or presiding Judge may amend the list of jurors returned by the Sheriff, by striking out the names of persons not liable to serve, or inserting the true name or addition of any person erroneously described, or by adding the name of any qualified person brought to their knowledge.

Court, &c. may amend jury list

XIX. When above twelve of the grand jury shall assemble in Court for the first time in each term, they shall choose a foreman for the said term.

When grand jury to choose their foreman.

XX. In all civil causes, informations or indictments for misdemeanors, either party may peremptorily challenge three of the jurors or talesmen.

Right of challenge.

XXI. When a full jury shall not appear, or appearing, shall be challenged, or otherwise prove deficient, a *tales de circumstantibus* shall, at the instance of either party be awarded and returned immediately.

Tales may be prayed by either party in case of a deficiency of jurymen.

XXII. There shall be paid to the petit jurors summoned and in attendance at any term of the Supreme Court, the sum of three shillings each, for each day's actual attendance, the same to be paid by the prothonotary or deputy prothonotary in the same way as Crown witnesses have heretofore been paid; but any petit juror who shall not appear and answer to his name on the first day of any term when the jury panel is called over, as in the preceding part of this Act regulated, shall forfeit his pay for that day; and on any succeeding day

Petit jurors to receive three shillings per diem for attendance.

In what cases pay to be forfeited.

of the term, on a jury being called for the trial of any particular cause, if any juror shall not be present to answer to his name when called, (unless he is engaged on some other jury impanelled to try another cause), he shall forfeit his pay for that day.

Fee payable in civil causes to each juror.

XXIII. The fee to be paid in all civil causes for the services of each juror impanelled to try the same, shall be the sum of one shilling for each juror trying the cause, and the same shall be paid by the plaintiff in the cause to the prothonotary or deputy prothonotary before the verdict is delivered, and shall be paid over by him to the jury who shall try the cause, in addition to their allowance by statute.

Grand jury panel not to be set aside, because Sheriff has not summoned all the persons named therein.

XXIV. Provided always, that if it shall appear at any term of the Supreme Court, that the Sheriff of the County (as the case may be) shall have failed or been unable to summon all the persons named in the grand jury panel drawn for such term, such panel shall not on that account be set aside or vitiated, nor shall the proceedings of the grand jury be on that account delayed; provided at least twenty grand jurors of those named in the panel shall have been duly summoned as required by this Act, and at least sixteen of the grand jurors so summoned shall be in attendance, who shall have power to take cognizance of, transact, and proceed with all indictments, bills, investigations, trials, and other business usually transacted or proceeded with by grand juries legally constituted and summoned as aforesaid; and all acts done, indictments found, or presentments made by them shall, notwithstanding any objection to be taken to the grand jury panel or otherwise, because some one or more of the jurors named therein have not been summoned as by law required, shall be, and the same are hereby rendered as legal and valid, as if all requisites in such respects had been fully complied with.

Petit jury panel not to be set aside, &c., provided 40 of the persons named therein shall have been summoned.

XXV. Provided also, that if it shall appear at any term of the Supreme Court, that the Sheriff of the County (as the case may be) has failed, or has been unable to summon all the persons named in the panel of petit jurors drawn for such term, such panel shall not on that account be vitiated or set aside; provided at least forty petit jurors shall appear to have been duly summoned as required by this Act; but all jury trials, wherein a special jury is not required, shall then be proceeded with by the Court, with juries impanelled from such petit jurors as actually appear to have been summoned as aforesaid, and shall be in attendance, and whose names shall be drawn or called by the prothonotary or deputy prothonotary for that purpose in the usual manner; and if a full or sufficient petit jury shall not appear, or appearing, shall be challenged or otherwise prove deficient, the Court, of its

own will, if it deem it necessary, or at the instance of either party to a suit, may order a *tales de circumstantibus* returnable immediately; and all verdicts given or found by such petit jurors, notwithstanding any objection to be taken to the panels or otherwise, because some one or more of the jurors named therein have not been summoned as by law required, shall be, and the same are hereby rendered as legal and valid as if all the requisites in such respects had been fully complied with.

XXVI. Service of a summons for a juror to attend any term of the Supreme Court of this Island shall be made by delivering the same to the juror summoned, or to his wife, or by leaving the same at his usual place of abode, at least six days before his attendance shall be required.

Summons for attendance of jurors how to be served.

XXVII. Nothing in this Act contained shall extend, or be construed to extend to exempt any grand or petit juror who may have been duly summoned, from being fined for nonattendance or otherwise.

Jurors not exempt from fine for nonattendance.

XXVIII. The High Sheriffs of the several Counties in this Island shall, after the passing of this Act, when they return to the prothonotary or deputy prothonotary of their respective Counties the lists of persons qualified to serve as grand and petit jurors, insert therein the place of residence, as well as the names of the persons so qualified.

Sheriff to insert in jurors' list, residence and name of persons.

XXIX. From and after the passing of this Act, if upon the trial by jury of any civil cause in the Supreme Court of Judicature of this Island, the jury are unable to agree upon a verdict, and if, after having been kept in deliberation for the period of four hours, nine of the said jury shall agree, the verdict agreed to by such nine may be returned as the verdict of the jury, and shall be taken and shall have the same force and effect, as if found unanimously by the whole of the said jury, any law or statute to the contrary notwithstanding; and during the said period, they may be furnished with necessary refreshments by leave of the Judge.

If a jury be unable to agree upon a verdict, after 4 hours' deliberation, the verdict of nine shall be valid.

XXX. The Act made and passed in the eighteenth year of the reign of her present Majesty, chapter one, is hereby repealed, save and except in so far as may be necessary to support and render valid all indictments, bills, investigations, trials, as well civil as criminal, and other business and proceedings whatsoever, which shall or may have been had, proceeded with, transacted, done or executed under and by virtue of the same, which said indictments, bills, investigations, trials, and other business or proceedings are hereby specially confirmed.

Repeals 18th Vic. c. 1, but confirms all proceedings had thereunder.

Grand and petit jurors drawn at term next preceding date of a special commission of oyer and terminer, &c., to serve as such under the commission.

Jurors to be summoned six days before their attendance shall be required.

Jurors for next following term of Court to be supplied by the return of fresh lists, &c.

All the provisions of this Act to apply to jurors, &c. under special commissions as to mode of summoning number required to attend.

XXXI. Whenever a special commission of oyer and terminer or general jail delivery, shall be issued for the trial of offences in any of the Counties in this Island, then the persons named in the lists of grand and petit jurors for the County (as the case may be) drawn by the prothonotary at the term of the Supreme Court next preceding the date of such special commission, and signed by the presiding judge, and sealed up and delivered by him to the prothonotary or deputy prothonotary, as by law required, shall be the grand and petit jurors who shall be, and they are hereby authorized and required to serve as such under the commission; and the prothonotary shall hand such lists, annexed to a *venire*, to the Sheriff, at least eighteen days before the opening or sitting of the commission; and the Sheriff shall thereupon cause all persons named in such lists to attend, on summons to be served on each of them respectively, requiring their attendance at the time and place specified in the commission, or at such time and place as may be ordered by any two of the Commissioners named therein, at least six days before such attendance shall be required.

XXXII. In order to supply grand and petit jurors for the term of the Supreme Court next following, after the date of any such special commission of oyer and terminer and general jail delivery, the Sheriff of the County (as the case may be) shall at the day appointed for the holding of such commission, return to the prothonotary fresh lists of parties selected by him qualified to serve as grand and petit jurors, and from each of such lists shall be drawn and made, as in other ordinary cases, lists of a sufficient number of names of persons required to serve on each jury during the following term; which lists so drawn shall be signed by the presiding Judge or Commissioner, who shall then seal up and deliver the same to the prothonotary, who shall hand the same to the sheriff for service in the usual manner.

XXXIII. All the provisions of this Act relating to grand and petit jurors in ordinary cases shall, so far as the same are or can be made applicable, be held and deemed to apply and extend to grand and petit juries, and jurors whose attendance shall or may be required, or be called for under any such special commission of oyer and terminer and general jail delivery as aforesaid, whether the same relate to the mode of summoning and enforcing the attendance of grand and petit jurors in ordinary cases, or regulate the number required in each case to be actually summoned, or the mode of paying for, awarding or returning a *tales de circumstantibus*, when a full jury shall not appear, or appearing, shall prove deficient or otherwise.

XXXIV. Every objection to any grand jury panel or individual grand juror, or challenge of the array, shall in all cases, whether at the sitting of any such special commission of oyer and terminer and general jail delivery, or at any ordinary term of the Supreme Court, be taken and made before pleading to any indictment, and not afterwards, unless it shall be clearly made out to the satisfaction of the Court, presiding Judge, or Commissioner, that the party making the objection was not in any way aware of, and had no notice of the same at the time of so pleading; and if the Court, presiding Judge, or Commissioner, before which or whom any such objection shall be taken or made, shall consider that the same was material, and really and substantially affected the impartiality and justice of the proceeding, then and in such case, but not otherwise, the Court, presiding Judge, or Commissioner, if it or he think fit so to do, shall, and it or he is hereby authorized to grant and order a new trial of the cause, on such terms and under such regulations as the Court, presiding Judge, or Commissioner, shall order and direct.

When objections to grand jury panel, &c. may be taken; in what cases objection allowed after pleading.

Court may order new trial, &c.

XXXV. Every objection to a petit jury panel, or any particular petit juror, or challenge to the array, shall in all cases, whether at the sitting of any such special commission of oyer and terminer, and general jail delivery, or at any ordinary term of the Supreme Court, be taken and made before swearing any of the petit jurors in the case, where the challenge is to the panel or array, or before swearing the particular petit juror objected to, as the case may be, and not afterwards, unless it shall be clearly made out to the satisfaction of the Court, presiding Judge, or Commissioner, that the party making the objection was not in any way aware of, and had no notice of the same at the time of swearing as aforesaid; and if the Court, presiding Judge, or Commissioner, before which or whom any such objection shall be taken or made, shall consider that the same was material, and really and substantially affected the impartiality and justice of the proceedings, then, and in such case, the Court, presiding Judge, or Commissioner, if it or he think fit so to do, shall, and it or he is hereby authorized and empowered to grant and order a new trial of the cause.

When objection to petit jury panel or to juror to be taken.

In what case objection allowed after jury, &c., sworn.

Court, &c., may grant new trial.

XXXVI. The Supreme Court, presiding Judge thereof, or Commissioner, as the case may be, is hereby authorized and empowered, on all occasions when improper and not sufficiently qualified parties appear on any Jury list or panel, to reform the same by striking out the names of the objectionable individuals; and the Sheriff shall furnish to the prothonotary, or his deputy, the names of three individuals for each name so struck out; and from the names of such three individuals one shall be indifferently drawn by the Court, presiding Judge, or Commissioner, for or in the place of each individual objected

Court, &c. authorized to alter jury panel, in certain cases.

Sheriff to be directed to make return of, and summon such parties as required.

to, and shall insert the same in the jury list or panel, in lieu thereof; and it shall be lawful for the Court, presiding Judge, or Commissioner, to do so at any time whenever it shall be brought to its or his notice, either before or during the sitting of the Court or Commission, and to direct and require the Sheriff to make return of, and summon the persons whose names shall be so inserted, to attend forthwith, or otherwise, as the circumstances of the case may require.

Objection to original lists from which jury panel shall be drawn only to be made in term when lists shall be handed in, &c.

XXXVII. No challenge or objection to any original list returned by the Sheriff, and from which any grand or petit jury panel shall be drawn, shall be allowed in any other term but that in which the lists shall be returned; but the Court, presiding Judge, or Commissioner, shall have power of its or his will, or on any objection being brought to its or his notice, to amend such lists by striking out the names of persons not liable to serve, or inserting the true name or addition of any person erroneously described, or by adding the name of any qualified person brought to their knowledge.

Grand jury sitting under special commission may present offences other than those committed by parties in jail, &c.

XXXVIII. Any grand jury assembled under and by virtue of any special commission of oyer and terminer and general jail delivery, shall have power to make presentment of any offences within the County, and to find Indictments therefor, although the parties charged with the commission thereof may not at any time be under bail or confined in jail; and any such presentment or indictment so found may be proceeded upon and tried during the sitting of such special commission, or at any future term of the Supreme Court in the County; and bench warrants and subpoenas may be issued by the presiding Judge or Commissioner, to compel the attendance of the parties accused, and the witnesses, in the usual manner.

Construction of expressions used in this Act.

XXXIX. Whenever the expression "presiding Judge" or "Commissioner," or "presiding Judge thereof" or "Commissioner," shall occur in this Act, it shall be held and deemed to mean and refer to the presiding Judge, or presiding Commissioner, as the case may be.

Continuance of Act.

XL. That this Act shall continue and be in force for ten years after the passing thereof, and from thence until the end of the then next session of the general Assembly.

CAP. XI.

An Act to provide for the organization of a volunteer force for the defence of this Island.

[Passed April 29, 1861.]

WHEREAS while large standing armies are maintained by the despotic powers of Europe, it is necessary that

the physical resources of the British empire should be ascertained and organized, that its integrity may be preserved, its commerce protected, and its power and influence maintained: and whereas the youth of this Island have shown a laudable spirit of emulation in coming forward to enroll themselves as volunteers for the defence of their country, and it is necessary to pass a law for their governance, and to provide them with the means of acquiring such discipline and training as will render them an effective force for that purpose: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

I. The Lieutenant Governor may continue the services of all corps of volunteers accepted before the passing of this Act, and may also accept the services of any corps of volunteers that may be formed after the passing hereof, such corps respectively being formed under officers having, or who shall have, commissions from the Lieutenant Governor, upon such terms and conditions, and under such regulations as have been or shall be approved by the Lieutenant Governor in regard to such corps.

Lt. Governor to continue volunteer corps already accepted &c.

II. The Lieutenant Governor may disband or discontinue the services of any such corps, or any portions of such corps, whenever it may seem expedient to the Lieutenant Governor so to do: provided always, that the services of all corps of volunteers accepted before the passing of this Act shall be deemed to be continued under the provisions hereof, unless the Lieutenant Governor shall signify his intention of disbanding or discontinuing the services of any such corps by an order to be communicated by the Adjutant General of Militia.

Authority to the Lt. Governor to disband volunteer corps

III. Effective members of volunteer corps shall be exempted from service in the militia.

Volunteers exempt from militia.

IV. Only those shall be deemed effective members who shall have attended muster or exercise properly armed and accoutred, if cavalry, four times, if infantry, eight times, at the least, in the six months immediately preceding the return required by this Act, and who shall have been duly returned by the commanding officer as effective members, and as having taken the oath of allegiance.

Effective members of volunteer corps; requirements to constitute.

V. Commanding officers shall make a return on the first day of January and the first day of July, in every year, to the Adjutant General of militia, of the numbers of men in the corps, distinguishing between the effective and noneffective members, of the persons who have entered the corps since the last return, and of those who have been discharged from or have quitted the corps since the last return.

Commanding officers to make returns, &c.

Oath of allegiance.

VI. Every person enrolled as a volunteer shall take the oath of allegiance to Her Majesty, which oath may be administered by any commissioned officer of the corps, or a Justice of the Peace.

Duties of volunteers in cases of invasion.

VII. In all cases of actual invasion or appearance of an enemy in force on the coast of this Island, all corps of volunteers shall, whenever they shall be summoned by the Lieutenant Governor, or upon the making of any general signals of alarm, forthwith assemble, and shall be liable to march to any part of this Island; and all persons then enrolled in any such corps not laboring under any infirmity incapacitating them from military service, and not holding a commission or serving in any of Her Majesty's other forces, or in any other corps of volunteers, and actually joining such corps, who shall refuse or neglect to join their respective corps, and to assemble and march therewith upon any such summons or general signal of alarm as aforesaid, shall be deemed deserters, and shall be subject to punishment as such, according to the provisions of the Mutiny Act; and all such corps of volunteers, and all officers and noncommissioned officers and private men therein shall, upon and from the time of such summons, or of such general signals of alarm being made as aforesaid, and until the enemy shall be defeated and expelled, continue and be subject to all the provisions contained in any Act of the General Assembly of this Island, then in force for the punishment of mutiny and desertion, and to any Articles of war made in pursuance thereof in all cases whatever.

Volunteers refusing to join their respective corps liable to punishment as deserters, &c.

Queen may select commanding officer, but volunteers to be led by their own officers.

VIII. Her Majesty may put the volunteer corps under the command of such General or other commissioned officer as she shall appoint, but such corps shall be led by their respective officers, and no effective member shall be liable to be placed in any other regiment or corps.

No volunteers officer to sit on trials of officers of other forces.

IX. No officer of volunteers shall sit on the trial of any officer or soldier of the other forces, and contrariwise.

Rank of volunteer officers.

X. All officers in volunteer corps having commissions from the Lieutenant Governor shall rank with the officers of Her Majesty's regular and militia forces as the youngest of their respective ranks.

Commanding officers may discharge members in certain cases.

XI. Commanding officers of volunteer corps, when not on actual service, may discharge members, not being commissioned officers, for disobedience of orders.

Authority to volunteers to quit their corps except in case of invasion.

XII. Persons enrolled as volunteers may quit their corps, except when called out in case of invasion, upon delivering up their arms and accoutrements; provided they give notice in writing to the commanding officer, of such their intention, at

least ten days before their so doing ; and that they shall have in the meantime paid up any fines, forfeitures, or subscriptions to which they may have become liable by the regulations of such troop or company.

XIII. Persons thinking themselves aggrieved by the commanding officer refusing to strike their names out of the muster rolls, may appeal to three Justices of the Peace, a majority of whom may determine the same.

Right of appeal in case of commanding officer refusing to discharge a volunteer.

XIV. Volunteers when assembled on invasion shall be entitled to receive pay, pensions, and allowances, and to be billeted as other forces ; and their families shall be entitled to the same pensions and relief as the families of militiamen.

Pay, pensions and allowances in case of invasion.

XV. The Lieutenant Governor shall direct arms and accoutrements in such numbers as may be deemed necessary to be issued from Her Majesty's magazines, under the direction of the Adjutant General of militia, or other officer to be placed in charge of the officers commanding volunteer corps, and under such regulations as shall be deemed necessary by the Commander-in-chief.

Lt. Governor may direct arms, &c., to be issued to commanding officers of volunteer corps.

XVI. Any enrolled volunteer neglecting to return such arms, and accoutrements as may have been delivered into his possession, or any of them, to the place ordered by his commanding officer, shall be subject, for every day's neglect, to a fine of five shillings.

Penalty on volunteers neglecting to return arms, &c.

XVII. The regulations of all volunteer troops or companies shall contain a penalty in amount not less than five shillings, to be inflicted on any volunteer who shall use the arms, accoutrements, or other articles entrusted to his charge, in any manner not authorized by the commanding officer and the regulations of the said troop or company.

Regulations of volunteer corps relative to unauthorized use of arms.

XVIII. All fines and forfeitures shall be recovered before one or more Justices of the Peace ; and the amount may be levied with costs, by distress ; and for want of goods and chattels, the offender shall be committed to jail for a period of forty-eight hours for every five shillings of the fine and forfeiture.

Mode of recovering fines, &c.

XIX. All fines and forfeitures shall be paid to the commanding officer of the corps, to be applied to the contingent expenses of such corps.

Appropriation of fines and penalties.

XX. In case any man shall sell, pawn, or lose any arms, clothing, or accoutrements delivered to him, or shall wilfully damage or destroy any such arms or accoutrements, every such man shall for every such offence forfeit and pay the value thereof.

Penalty in case any man sells, pawns, &c., any arms, &c.

Title to volunteer property to vest in commanding officer

Appropriation of £100 to the volunteer service for the year 1861.

XXI. The property in subscriptions, arms, clothing and accoutrements shall be vested in the commanding officers of corps, for all purposes of indictments or suits.

XXII. The Lieutenant Governor in Council may, during the year one thousand eight hundred and sixty-one, draw from the treasury of this Island a sum not exceeding four hundred pounds, and may expend the same in the payment of staff officers and drill sergeants, who have been trained in the British army, in the purchase of ammunition and accoutrements, and in the storage and preservation of the arms furnished by Her Majesty's Imperial Government, and generally in such other services as may from time to time appear to him necessary for the efficient organization and maintenance of such volunteer force.

Accounts of expenditure to be laid before the Legislature.

XXIII. Accounts, with vouchers for the expenditure authorized by this Act, shall be annually laid before the Legislative Council and the House of Assembly.

CAP. XII.

An Act to incorporate the Roman Catholic Bishop of Charlottetown in his diocese.

[Passed April 29, 1861.]

. This Act was passed with a suspending clause and did not receive Her Majesty's assent.

CAP. XIII.

An Act to authorize the appointment of hog reeves in certain districts in this Island, and to prevent the going at large of swine within the same.

[Passed April 29, 1861.]

WHEREAS the inhabitants of various districts or localities in this Island have petitioned the Legislature to enact laws to prevent the going at large of swine within their respective districts, and it is deemed expedient to pass one general Act for that purpose for the whole Island:

Commissioner of highways upon application of two-thirds of resident householders in district to appoint two hog reeves annually.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that when two-thirds of the inhabitants, resident householders, of any school district within this Island shall make application, in writing, to the Commissioner of highways for the district wherein they reside, stating their desire or request, that hog reeves may be appointed for said district, it shall and may be lawful for the said Commissioner, and he is hereby required forthwith, and annually thereafter,

to appoint two fit and proper persons to act as hog reeves for the space of one year from the date of their appointment, within the limits of such school district as at present defined and registered in the books kept by the Secretary of the Board of Education for the purpose of registering the school districts in this Island.

II. It shall be the duty of such persons so appointed, and they are hereby required to seize and take up within said district, all hogs or swine going at large therein beyond the premises or enclosures of the owner or owners thereof; and such hog reeves are hereby authorized to call upon such of the inhabitants of said district as they may deem necessary to aid them in seizing and securing all swine so going at large.

Duty of hog reeves.

III. It shall be lawful for such hog reeves, or any one of them, to sell, or cause to be sold at public auction, all swine so seized and taken up as aforesaid, forty-eight hours' notice having been previously given, by written notices posted up in two of the most public places in said district; provided always that the owner or owners of all swine so taken up shall be entitled to have the same returned to him, her, or them, if he, she, or they, shall, previous to such sale thereof as aforesaid, tender to such hog reeve or hog reeves who shall have seized or taken up the same, the sum of two shillings and six pence of lawful money of the said Island *per* head for all swine so seized and taken up; and the proceeds of such sale as aforesaid, or the sum so to be paid by such owner or owners, shall be retained by such hog reeve or hog reeves for his or their own use and benefit.

Swine seized to be sold after 48 hours' notice.

Proceeds of sale and fine how appropriated.

IV. Any person so appointed hog reeve within such district as aforesaid, and who shall refuse or neglect to perform the duties of his said office, by not taking up all swine so found going at large as aforesaid within such district, or in not disposing of the same in manner hereinbefore prescribed, shall forfeit and pay for every such refusal or neglect the sum of twenty shillings, to be recovered before any one or more of Her Majesty's Justices of the Peace for the County wherein such district shall be situate, together with the costs of suit; and to be levied, in default of payment, by warrant of distress on the goods and chattels of such hog reeve; one half of the said fine to be paid into the treasury of this Island for the use of Her Majesty's government, and the other moiety to the person who shall prosecute such hog reeve: provided always, that no person appointed hog reeve as aforesaid, shall be liable to serve as such more than once in every three years.

Penalty on hog reeve neglecting to perform duty.

Appropriation of penalty.

V. All persons in any way or manner obstructing any such hog reeve or hog reeves in the execution of his or their duty,

Penalty on persons obstructing hog reeve.

shall forfeit and pay a fine not exceeding two pounds, and not less than five shillings; such fine to be recovered on the oath of any such hog reeve, or one or more credible witness or witnesses, and in manner last aforesaid; and in the event of the offender or offenders not having goods or chattels whereon to levy the said fine, then the said Justice of the Peace is hereby authorized and empowered to commit the said offender or offenders to the jail of the County wherein the offence shall be committed for a period not exceeding ten days.

Duration of
Act.

VI. This Act shall continue and be in force for three years from the passing hereof, and from thence to the end of the then next session of the General Assembly, and no longer.

CAP. XIV.

An Act to incorporate the trustees of the Presbyterian Church at Covehead.

[Passed April 29, 1861.]

☞ This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic., cap. 3.

CAP. XV.

18 Vic. c. 34.

An Act to amend the Act to incorporate the Town of Charlottetown.

[Passed April 29, 1861.]

☞ This Act has been printed in the volume of private and local Acts, pursuant to Act 1 Vic. c. 3.

CAP. XVI.

22 Vic. c. 13.

An Act to repeal a certain Act therein mentioned relating to the prevention of smuggling.

[Passed April 29, 1861.]

Preamble.

WHEREAS the Act of the fourteenth year of her present Majesty's reign, chapter eight, intituled "An Act for the better prevention of smuggling," has been continued by the Act of the twenty-second year of the same reign, chapter thirteen, intituled "An Act to continue an Act for the better prevention of smuggling;" and whereas at the time of the passing of the said last recited Act, the said Act of the fourteenth of Victoria, chapter eight, had been repealed by and incorporated in the revenue Act of the nineteenth of Victoria, chapter one, which last mentioned Act still remains in

force; and it is therefore expedient to repeal the said continuing Act of the twenty-second of Victoria, chapter thirteen:

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that the said Act made and passed in the twenty-second year of the reign of her present Majesty Queen Victoria, intituled "An Act to continue an Act for the better prevention of smuggling," shall be, and the same is hereby repealed. Repeals 22d Vic. c. 13.

CAP. XVII.

An Act to prevent congregations being disturbed or disquieted during the performance of public worship.

[Passed April 29, 1861.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:

I. Whoever shall disturb or disquiet any meeting of persons assembled for religious worship, or any person officiating at such meeting, or any of the persons then assembled, upon being convicted thereof before any Mayor, Common Councillors, or Justice of the Peace, shall for every such offence forfeit and pay a sum not exceeding five pounds, nor less than ten shillings; and on default of payment, such offender shall be imprisoned in the jail of the County where such offence shall have been committed for a term not exceeding one month. Persons convicted of disturbing, &c., meeting for public worship to be fined.

II. The fine imposed by this Act, when recovered before the Mayor and City Council of Charlottetown, shall be paid to the City treasurer for the use of the said City; and if recovered before a Justice of the Peace for either of the Counties, shall be paid into the treasury of this Island for the use of Her Majesty's Government. Appropriation of fine.

CAP. XVIII.

An Act to consolidate and amend the laws relating to the conveyance of real estate by married women during their coverture.

[Passed April 29, 1861.]

BE it enacted by the Lieutenant Governor, Council and Assembly, That all grants, deeds, and conveyances, heretofore made and executed by any married woman, whether absolutely or by way of mortgage, or otherwise, jointly with her husband, of any lands, tenements and hereditaments in Deeds heretofore made by barons and femes of lands, &c. to be valid in law &c.

this Island, whereof such married woman is dowable, or whereof at the time of the execution of any such grant, deed, or conveyance thereof as aforesaid, she shall have been seized or entitled to in her own right, shall be as good and valid in law as if the same had been made by a *feme sole*, or as if such married woman had joined in levying a fine according to the law and practice in that behalf heretofore in force in that part of Great Britain called England.

Deeds hereafter to be made by heron and *feme* of lands &c., to be valid in law, &c.

II. All deeds, grants and conveyances which shall hereafter be made and executed by any married woman, whether absolutely or by way of mortgage or otherwise, jointly with her husband, of lands, tenements and hereditaments, whereof she is by law dowable, or of which she may be seized, or in or to which she may have any present or future interest, either in her own right, or in or by any other way or means whatsoever, shall be as good and valid in law, and of the same force and effect, as if the same deeds, grants and conveyances had been made by a *feme sole*, or as if such married woman had joined in levying a fine in manner hereinbefore mentioned; any law, usage or custom to the contrary thereof notwithstanding.

Provided such deeds be acknowledged before a Judge or Justice of the Peace.

III. Provided always, that every such deed, grant or conveyance so made and executed by any such married woman as aforesaid, shall be acknowledged, if executed by her within this Island, in the presence of a Judge of the Supreme Court of Judicature of the said Island, or any Justice of the Peace thereof, as her free and voluntary act and deed, and that the same was executed by her for the purposes in such deed mentioned, and that the same was done without any force or compulsion of her said husband, and a certificate of such acknowledgment, in the form in the schedule to this Act annexed, *mutatis mutandis*, under the hand of the said Judge of the Supreme Court, or Justice of the Peace, before whom the same shall be made, shall be underwritten or endorsed on each and every such deed, grant or conveyance.

Execution of conveyance by married woman residing out of the Island how to be acknowledged.

IV. And provided also, that every such deed, grant or conveyance made and executed by any married woman as aforesaid, if executed by her in parts beyond the sea, or out of the limits of this Island, shall be by her acknowledged before a Judge of a Court of Record or superior Court, Chancellor, Master in Chancery, Member of Her Majesty's Council, Colonial Secretary, British Ambassador, Consul, or Justice of the Peace, in the Kingdom, Province, Colony, or Country, where such married woman shall reside, that such deed, grant, or conveyance is her free and voluntary act and deed, and that she executed the same for the purposes therein mentioned, and without the force or compulsion of her husband; and a

certificate of such acknowledgment in the form prescribed in the aforesaid schedule to this Act annexed, *mutatis mutandis*, shall be underwritten or endorsed upon every such deed, grant or conveyance, by and under the hand of the Judge, Chancellor, Master in Chancery, Member of Council, Colonial Secretary, British Ambassador, or Consul, or Justice of the Peace, who shall take such acknowledgment; and such certificate shall be authenticated by a written declaration, under the hand and seal of the Governor, Lieutenant Governor, or Commander-in-chief, or the attestation and certificate of a Notary Public, or the seal of some corporation in such Kingdom, Province, Colony or Country, as aforesaid, where such deed or instrument shall be executed, that the signature of the person taking such acknowledgment is the actual and proper handwriting of such person so taking such acknowledgment.

Certificate of acknowledgment how to be authenticated.

V. It shall and may be lawful for every married woman, by any deed or instrument in writing, under her hand and seal and executed in the presence of one or more credible witnesses or witnesses, to constitute any person her attorney, to release and convey away, with the consent of her husband, her right, whether of dower or otherwise, howsoever entitled in or to any such lands, tenements and hereditaments within this Island; provided that such land, tenements and hereditaments be described with sufficient certainty in such deed or power of attorney, and that an acknowledgment in the manner hereinbefore prescribed be duly certified, on or within the said power of attorney, and that the signature of the person granting such certificate, if the deed or instrument of attorney be executed out of this Island, be duly authenticated as hereinbefore required and prescribed; and the said power of attorney, in either case, duly registered in conformity with the laws of the Island for registration of such instruments, and the provisions of this Act, and any deed executed by such attorney, pursuant to such power, shall be as good and effectual to all intents and purposes whatsoever, as if the same had been executed by such married woman, and acknowledged in the manner pointed out in the third section of this Act.

Married woman may constitute an attorney to convey real estate.

Mode of constituting attorney for this purpose

VI. From and after the passing of this Act, the several Acts hereinafter mentioned shall be, and the same are hereby repealed; that is to say, "An Act passed in the thirty-sixth year of his late Majesty King George the third, chapter three:" "An Act passed in the third year of her present Majesty Queen Victoria, chapter twenty-four:" "An Act passed in the sixth year of her present Majesty, chapter twenty-five."

Repeals Acts 36 Geo. 3d., c. 3; 3d. Vic., c. 24; and 6 Vic., c. 25.

SCHEDULE to which this Act refers.

Form of certificate of acknowledgment.


Be it remembered, that on the day of in the year of our Lord one thousand eight hundred and the within named (wife of the within named) personally appeared before me one of the Justices of (or as the case may be,) and being by me solely and separately examined apart from her said husband, did acknowledge that the within written indenture of release (or as the case may be) was by her duly signed, sealed, executed and delivered as and for her free and voluntary act and deed, and that she executed the same without the compulsion or force of her said husband, and that at the time of the execution thereof she knew the same to be a conveyance of the estates and premises within mentioned unto the within named his heirs and assigns, free and clear of all estate, right, title, interest, claim and demand of her the said in respect of her dower or otherwise.

A. B., J. P., (or otherwise.)

CAP. XIX.

An Act to authorize the trustees of the Georgetown schools to sell the present school site therein, and to appropriate a portion of the public square as a school site in lieu thereof.

[Passed April 29, 1861.]

 This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

CAP. XX.

15. Vic., c. 40. An Act to repeal a certain Act therein mentioned relating to statute labor for Charlottetown, its common and royalty, and also to nuisances in and about the same.

[Passed April 29, 1861.]

. This Act repealed so much of the Act 15 Vic., c. 40, as related to the Royalty of Charlottetown, all other parts of said Act having been previously repealed by a By-law of the City Council of Charlottetown, passed under the powers vested in said Corporation by the Act 18 Vic., c. 34, sec. 37.

CAP. XXI.

An Act relating to the Land Assessment at present imposed by law on the town and royalty of Princetown.

[Passed April 29, 1861.]

WHEREAS the owners of town and pasture lots in the town and royalty of Princetown, and residents therein, under and by virtue of an Act passed in the present session of the General Assembly of this Island, intituled "An Act to repeal certain parts of the Act consolidating the election laws, and to make other provisions in lieu thereof," have been divested of the right to return two members to the General Assembly of this Island, formerly exercised by them: and whereas the said town and pasture lots are now by the laws of this Island rendered liable to the payment of a higher rate of assessment than is imposed upon township lands: and whereas it is right and just, that such lands as now are comprised in such town and pasture lots should be taxed and assessed as township lands: Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows:

Preamble.

34 Vic., c. 24.

I. That from and after the time when this Act shall come into operation, no special assessment or land tax shall be made payable upon or in respect of any town lot in Princetown, or pasture lot in the royalty of Princetown; but the lands comprising such town and pasture lots shall be assessed under the laws now in force for levying assessment or land tax, as though the same were portions of the township lands of this Island, and at the same rate *per acre* as shall for the time being be chargeable upon township lands in this Island.

After this Act comes into operation town lots and pasture lots in Princetown and royalty to be taxed in same proportion as township lands in this Island.

II. This Act shall not come into force and operation until the expiration or dissolution of the present House of Assembly; and the said decreased or acreable tax or assessment in respect of the lands comprising the said town and royalty of Princetown, shall first become due and payable at the period at which the first annual payment of general land tax in this Island shall become due after such expiration or dissolution of the present House of Assembly as aforesaid.

When this Act shall come into operation.

Acreable tax when to be levied.

CAP. XXII.

An Act for the punishment of persons who shall be guilty of the trespasses therein mentioned.

See 12 Vic., c. 16.

[Passed April 29, 1861.]

WHEREAS grievous depredations are frequently committed by evil disposed persons in and upon the gardens, orchards, and other cultivated grounds of divers of the inha-

Preamble.

bitants of this Island, and the existing laws do not adequately provide for the punishment of such offenders :

Persons convicted of stealing, destroying, &c., vegetables, fruits, &c., in any garden, &c. how punishable

Term of imprisonment.

Amount of penalty, and mode of recovering same.

This Act not to preclude party recovering damages against trespasser.

Implicated party on giving information (within one month) that will lead to conviction of others, to be exempt from fine.

I. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, that from and after the passing of this Act, every person who shall pluck, pull up, cut or destroy, steal or carry away, or in any manner damage or injure any crop, vegetables, fruit, shrub, plant, root or roots, fruit or ornamental tree or trees, or other things growing or being in any garden, orchard, nursery, ground, field or other cultivated ground, hot-house, green-house, or conservatory of any person or persons whomsoever within this Island, and shall be thereof convicted before two or more of Her Majesty's Justices of the Peace for the County wherein any such offence shall have been committed ; or if within the City of Charlottetown and common thereof, before the Mayor and one or more Councillors, or before any two of the City Councillors, either by the confession of the party offending, or on the oath of one or more credible witness or witnesses, every such person so offending shall for each and every such offence, on conviction, be committed to the common jail of the County wherein any such offence shall have been committed, there to be imprisoned only, or to be imprisoned and kept to hard labor for not more than one calendar month ; or else shall forfeit and pay over and above the value of the article stolen, or the amount of the injury done, a sum not exceeding ten pounds, nor less than ten shillings, together with costs, to be levied by warrant of distress, and sale of the goods and chattels of such offender ; and for want of goods and chattels whereon to levy, such offender shall be committed as aforesaid, with or without hard labor, as to such Mayor and Councillors or Justices committing shall seem meet, for not more than one calendar month, unless such fine and costs shall be sooner paid.

II. This Act, or any thing herein contained, shall not bar or preclude any person or persons from recovering his, her, or their damages against any person or persons who shall be guilty of any of the mischiefs or trespasses aforesaid ; but the same may be recovered in the same manner, as if this Act had not been passed.

III. If two or more persons shall have been jointly concerned in committing any such offence as aforesaid, and one or more of them, (not having been informed against) shall, within the space of one month after the offence committed, inform or give information against any or all of the others concerned in the same offence, (not having been then informed or proceeded against,) so as to convict him, her, or them, the person so informing shall not be liable to any part of the fine hereinbefore mentioned.

IV. All fines and forfeitures under this Act, when recovered, shall be appropriated as follows: one moiety thereof to the person who shall prosecute therefor, and the other moiety, if recovered before the Mayor and Councillors of the City of Charlottetown, shall be paid to the City Treasurer for the use of the said City, and if before any of Her Majesty's Justices of the Peace for any of the Counties in this Island, then to the Colonial Treasurer for the use of Her Majesty's Government.

Appropriation
of fines.

V. This Act shall continue and be in force for the space of ten years from the passing thereof.

Duration of Act

CAP. XXIII.

An Act to continue certain Acts therein mentioned.

[Passed April 29, 1861.]

WHEREAS the Acts hereinafter mentioned will shortly expire, and it is deemed expedient to continue the same.

Preamble.

I. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, that the Act of the fourteenth year of the reign of her present Majesty Queen Victoria, chapter one, intituled "An Act to regulate the laying out and altering of highways;" the Act of the eighteenth year of the same reign, chapter twenty-seven, intituled "An Act in addition to and amendment of the Act regulating the laying out and altering of highways;" the Act of the fourteenth year of the same reign, chapter five, intituled "An Act for constituting boards of health;" the Act of the fourteenth year of the same reign, chapter seven, intituled "An Act to oblige husbands and natural relatives of indigent and impotent persons unable to maintain themselves, to contribute to their support;" the Act of the fourteenth year of the same reign, chapter fourteen, intituled "An Act relating to stray cattle," and the Act of the fourteenth year of the same reign, chapter twenty-one, intituled "An Act to provide for the summary trials of common assaults and batteries," shall be, and the same are hereby severally continued in force for the period of ten years from the time of the passing hereof, and from thence to the end of the then next session of the general Assembly of this Island, and no longer.

Continued 14th
Vic., c. 1, 18th
Vic., c. 27, 14th
Vic., c. 5, 14th
Vic., c. 7, 14th
Vic., c. 14, and
14th Vic., c. 21,
each for ten
years and to the
end of the then
next Session.

CAP. XXIV.

An Act to incorporate the trustees of Saint Dunstan's College in Queen's County, and for other purposes therein mentioned.


[Passed April 29, 1861.]

 This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

CAP. XXV.

14 Vic., c. 28. An Act to continue an Act relative to accidents by fire, and for the improvement of property in Georgetown, and for the removal of nuisances from the streets and squares thereof

[Passed April 29, 1861.]

 This Act has been printed in the volume of private and local Acts pursuant to Act 24th Vic. c. 3.

CAP. XXVI.

15 Vic., c. 6. An Act to continue the Act relating to packets sailing between this Island and the provinces of Nova Scotia and New Brunswick.

[Passed April 29, 1861.]

Preamble. WHEREAS the Act of the fifteenth Victoria, chapter six, intituled "An Act to facilitate the intercourse between this Island and the provinces of Nova Scotia and New Brunswick," will shortly expire, and it is expedient to continue the same: Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows:

Continues 15th Vic., c. 6, for ten years, and to end of the then next session. I. The said hereinbefore recited Act of the fifteenth Victoria, chapter six, shall be, and the same is hereby continued for the space of ten years from the passing hereof, and from thence to the end of the then next session of the general Assembly, and no longer.

CAP. XXVII.

An Act relating to the punishment of certain cases of felony and misdemeanor.

[Passed April 29, 1861.]

Preamble. WHEREAS there are several crimes now by law punishable with death, and it is expedient that such capital punishment should in such respects be abolished, and a lesser punishment prescribed in lieu thereof; and also that the crime of incest should be made punishable in manner hereinafter enacted:

Repeals such parts of 6th Will. 4th, c. 22, as make robbery and rape capital offences I. Be it enacted by the Lieutenant Governor, Council and Assembly, that from and after the passing of this Act, so much and such parts of an Act passed in the sixth year of the reign of his late Majesty King William the fourth, chapter twenty-two, as prescribed, and require the punishment of death for the crimes of robbery and rape be, and the same are hereby repealed.

II. Every person hereafter convicted of the crime of robbery, and every person hereafter convicted of the crime of rape, shall be guilty of felony, and shall be liable to be imprisoned, with or without hard labor, in the common jail or house of correction for any term not exceeding twenty-one years; and if a male to be once, twice or thrice publicly or privately whipped, if the Court before whom he shall be tried shall so think fit, in addition to such imprisonment as he shall be sentenced to.

Punishment for crimes of robbery and rape.

III. Every person hereafter convicted of the crime of incest shall be guilty of a misdemeanor, and shall be liable to be imprisoned, with or without hard labor, in the common jail or house of correction for any term not exceeding twenty-one years.

Punishment for the crime of incest.

CAP. XXVIII.

An Act to exempt certain bills of exchange, promissory notes, contracts and agreements from the operation of the laws relating to usury.

[Passed April 29, 1861.]

WHEREAS it is desirable to exempt certain bills of exchange, promissory notes, contracts and agreements from the operation of the laws relating to usury: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

Preamble.

I. No bill of exchange or promissory note made payable within three years after the date thereof, or not having more than three years to run, nor any contract for the loan or forbearance of money above the sum of ten pounds currency, shall, by reason of any interest taken thereon, or secured thereby, or any agreement to pay or receive or allow interest in discounting, negotiating or transferring any such bill of exchange or promissory note, be void; nor shall the liability of any party to any such bill of exchange or promissory note nor the liability of any person borrowing any sum of money as aforesaid, be affected by reason of any statute or law in force for the prevention of usury; nor shall any person or persons, or body corporate, drawing, accepting, endorsing or signing any such bill or note, or lending or advancing, or forbearing any money as aforesaid, or taking more than the present rate of legal interest in this Island for the loan or forbearance of money as aforesaid, be subject to any penalties under any statute or law relating to usury, or any other law whatsoever in force within this Island to the contrary notwithstanding: provided always, that nothing herein contained shall extend to the loan or forbearance of any money upon security of any lands, tenements, or hereditaments, or any estate or interest therein.

Bills of exchange, &c., payable within three years, and contracts for loan of money above £10 not to be subject to usury law.

Proviso.

II. Nothing in this Act contained shall be construed to

No more than
£6 per cent. to
be claimed on
account, &c.

enable any person or persons to claim in any Court of law or equity more than six pounds *per centum* interest on any account or on contract or engagement, notwithstanding they may be relieved from the penalties against usury, unless it shall appear to the Court that any different rate of interest was agreed to between the parties.

Continuance
of Act.

III. This Act shall continue in force for and during the space of ten years from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

CAP. XXIX.

An Act for the protection of copyright.

[Passed April 29, 1861.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, as follows:

Author, &c. of
any map, book,
&c. published
within this Is-
land to have
monopoly of
same for term
of 21 years.

I. The author of any map, chart, book, or pamphlet, printed, or of any print engraved within this Island, who has not transferred the copyright thereof, and any other person who has legally acquired the copyright of any such map, chart, book, pamphlet or print, in order to publish the same, shall have the sole right of publishing such map, chart, book, pamphlet, or print, for the term of twenty-one years from the recording the title or the entry thereof in the office of the Colonial Secretary; and the author of any map, chart, book, pamphlet, or print, not published within this Island, his executors, administrators or assigns, shall have the sole right of publishing such map, chart, book, pamphlet, or print, for the like term of twenty-one years; and if at the expiration of such term the author of any such map, chart, book, pamphlet or print, shall be living, the same right shall be continued to him for the further period of fourteen years; but he shall cause the title thereof to be a second time recorded, and published within six months before the expiration of the first term of twenty-one years; and no person shall be entitled to any right by virtue of this Act, unless he shall be resident within this Island at the time of his application therefor.

Penalty on
persons pub-
lishing, selling,
&c. without the
consent of the
author, any
maps, books,
&c. after the
copyright has
been duly re-
gistered.

II. If any other person, after the recording of the title of any map, chart, book, pamphlet, or print, and publishing the same within the times limited, shall print or import from any other country, copies of such map, chart, book, pamphlet or print, without the consent of the author and proprietor thereof first had in writing, signed in the presence of two witnesses, or expose to sale any such copy of such map, chart, book, pamphlet or print, such offender shall forfeit all copies of such

map, chart, book, pamphlet or print, and all sheets being part of the same, to the author and proprietor thereof, who shall forthwith destroy the same; and every such offender shall forfeit not less than one, nor more than five shillings, for every sheet found in his possession, to whomsoever will sue for the same.

III. If after the recording the title and entering of any print, any person whomsoever shall engrave, etch or work, or in any manner copy or sell in the whole, or in part, by copying, varying, adding to or diminishing from the main design, or shall print, reprint, or import for sale, any such print, or any part thereof, without the consent in writing of the proprietor thereof, signed in the presence of two witnesses, or knowing the same to be so printed, reprinted, or imported, without the consent of the proprietor, shall publish, sell, or expose the same to sale, such offender shall forfeit the plates on which such print shall be copied, and all sheets of such print, and all parts thereof, to the proprietor of the original print, who shall forthwith destroy the same; and such offender shall forfeit the sum of twenty shillings for every print found in his custody, either printed, published, or exposed to sale, or otherwise disposed of, to whosoever will sue for the same.

Penalty on persons who shall engrave, copy, &c., any print, without the consent of the author, after the title thereof has been recorded.

IV. No person shall be entitled to benefit under the provisions of this Act, in cases where any map, chart, book, pamphlet, or print, has been already published, unless a printed copy of the title of the same shall, before publication, be deposited in the Colonial Secretary's Office, who shall record the same in a book kept by him for that purpose, in the words following, and give a copy thereof under his hand to the author or proprietor, if required:

No person entitled to the benefit of this Act unless a printed copy of title shall, before publication, be deposited in office of Colonial Secretary.

"Prince Edward Island.

"Be it remembered that on this day of A. D. 18 A. B., of in the said Island, has deposited in this Office the title of a map, (chart, book, pamphlet, or print, as the case may be), the copyright whereof he claims in the words following (here insert the title) in conformity with the Act for the protection of copyright.

Certificate of record.

"C. D., Colonial Secretary."

V. For which certificate the Secretary shall receive five shillings, and five shillings for every copy; and the author or proprietor shall cause a copy of such record to be inserted in full length in the title page, or in the page following the title page of such book; and if a map, chart or print, the following words shall be impressed on the face thereof:

Fee for certificate.

Certificate to be inserted in title page of book.

"Entered according to law on the day of 18 by A. B., of Form of entry on charts, &c.

Penalty on persons not having the copyright, inserting therein that same have been legally entered, &c.

VI. If any person not having legally acquired the copyright, shall print or publish any map, chart, book, pamphlet, or print, and shall insert therein or impress thereon, that the same has been entered according to law, or words purporting the same, he shall forfeit one hundred pounds; to be recovered by bill, plaint, or information, in the Supreme Court of Judicature, to and for the use of her Majesty's Government.

Limit of time for bringing actions.

VII. Actions under this Act shall be commenced within three years from the time when the cause of action accrued.

Persons publishing manuscript without consent of author, liable for damages.

VIII. Any person printing or publishing any manuscript, without the consent of the author or proprietor thereof, if resident in this Island, shall be liable to such author or proprietor for all damage occasioned thereby, to be recovered by a special action on the case.

Proprietor of map, books, &c. to deposit copy in Legislative library.

IX. The proprietor of any map, chart, book, pamphlet or print, entitled to the rights and privileges hereby conferred, shall, within six months from the publication thereof, deposit one copy thereof in the Legislative library of this Island.

What books admitted free of duty.


X. All books shall be admitted into this Island duty free, except reprints of books, the copyright whereof is protected by the Acts of the Imperial Parliament.

CAP. XXX.

23 Vie. c. 33.

An Act to alter and amend the Act incorporating the Crapaud dredging machine company.

[Passed April 29, 1861.]

 This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vie. c. 3.

CAP. XXXI.

An Act to give summary protection to persons employed in the publication of Parliamentary papers.

[Passed April 29, 1861.]

Preamble.

WHEREAS it is essential to the due and effectual exercise and discharge of the functions and duties of Parliament, and to the promotion of wise legislation, that no obstructions or impediments should exist to the publication of such of the reports, papers, votes or proceedings of either the Legislative Council or the House of Assembly, as either of such Houses may deem fit or necessary to be published: and whereas obstructions or impediments to such publications may arise by means of civil or criminal proceedings

being taken against persons employed by or acting under the authority of the Legislative Council and House of Assembly, or one of them, in the publication of such reports, papers, votes or proceedings; by reason and for remedy whereof it is expedient that more speedy protection should be afforded to all parties acting under the authority aforesaid, and that all such civil or criminal proceedings should be summarily put an end to, and determined in manner hereinafter mentioned:

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That it shall and may be lawful for any person or persons who shall be a defendant or defendants in any civil or criminal proceedings to be commenced or prosecuted in any manner soever, for or on account or in respect of the publication of any such reports, papers, votes or proceedings, by such person or persons, or by his, her or their servant or servants, by or under the authority of either the Legislative Council or House of Assembly, to bring before the Court in which such proceedings shall be so commenced or prosecuted, or before any Judge of the Supreme Court, first giving twenty-four hours' notice of his intention so to do, to the prosecutor or plaintiff in such proceedings, a certificate under the hand of the President of the Legislative Council, or the Speaker of the House of Assembly for the time being, stating that the report, paper, votes or proceedings, as the case may be, in respect whereof such civil or criminal proceedings shall have been commenced or prosecuted, was published by such person or persons, or by his, her or their servant or servants, by order or under the authority of the Legislative Council or the House of Assembly, as the case may be, together with an affidavit verifying such certificate; and such Court or Judge shall thereupon immediately stay such civil or criminal proceedings, and the same and every writ or process issued therein, shall be, and shall be deemed and taken to be finally put an end to, determined and superseded by virtue of this Act.

Any person proceeded against for publishing Parliamentary reports, &c., may produce certificate of President of Legislative Council or Speaker, that such report was published under authority of Council or Assembly.

Certificate how to be verified.

II. In case of any civil or criminal proceedings hereafter to be commenced or prosecuted for or on account or in respect of the publication of any copy of such report, paper, votes or proceedings, it shall be lawful for the defendant or defendants, at any stage of the proceedings, to lay before the Court or Judge such report, paper, votes or proceedings, and the correctness of such copy, and the Court or Judge shall immediately stay such civil or criminal proceedings, and the same and every writ or process issued therein, shall be, and shall be deemed and taken to be finally put an end to, determined and superseded by virtue of this Act.

Persons proceeded against on account of publication of report, &c. may lay original before the Court.

III. It shall be lawful in any civil or criminal proceed-

Defendants sued
&c, for print-
ing extract of
report, &c. may
give such re-
port in evi-
dence, &c.

ing to be commenced or prosecuted for printing any extract from, or abstract of such report, paper, votes or proceedings to give in evidence, under the general issue, such report, paper, votes or proceedings, and to shew that such extract or abstract was published *bona fide*, and without malice; and if such shall be the opinion of the jury, a verdict of "not guilty" shall be entered for the defendant or defendants.

Nothing in this
Act to affect
privileges of
Assembly.

VI. Provided always, and it is hereby expressly declared and enacted, that nothing herein contained shall be deemed or taken, or held, or construed, directly or indirectly, by implication or otherwise, to affect the privileges of the General Assembly of this Island in any manner whatsoever.

CAP. XXXII.

23 Vic. c. 31.

An Act to alter and amend the Act intituled "An Act to incorporate sundry persons by the name of the Cascumpec marine railway company.

[Passed April 29, 1861.]

☞ This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

CAP. XXXIII.

An Act to authorize the exportation of the horse "Saladin" from this Island, and to repeal a certain Act therein mentioned.

[Passed April 29, 1861.]

☞ This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic., c. 3.

CAP. XXXIV.

19 Vic. c. 21.

An Act to repeal certain parts of the Act consolidating the Election Laws, and to make other provisions in lieu thereof.

[Passed April 29, 1861.]

Preamble.

WHEREAS the Act passed in the nineteenth year of the reign of her present Majesty, intituled "An Act to increase the number of members to serve in the General Assembly, and to consolidate and amend the laws relating to elections," is oftentimes violated by persons exercising the elective franchise more than once in the one town or district at the same election, and also by persons presuming to vote without the qualification intended by the said Act, and it is necessary to provide against such frauds on the law:

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That the ninth, nineteenth, twenty-first, twenty-third, twenty-fourth, twenty-sixth, twenty-seventh, twenty-eighth, thirty-first, seventieth and eightieth sections of the above recited Act; also the schedules (A.) (B.) and (C.), thereunto annexed, be, and the same are hereby repealed.

Repeals sections 9, 19, 21, 24, 24, 26, 27, 23, 31, 70, and 80, of 19 Vic. cap. 21.

II. And whereas Princetown, although intended by the original plan or design by which this Island was laid off into counties and townships, to be the chief town of Prince County, has never as yet become inhabited, and the advantages possessed by the village or settlement of Summerside, on township number Seventeen, as a port for steam navigation, and for all commercial purposes, as well as the growing increase in its trade and number of its inhabitants, render it better adapted than Princetown as a site for the chief town in the said County: Be it therefore further enacted, that so much and such parts of the hereinbefore recited Act as authorizes the owners and occupiers of real estate in Princetown and royalty, or township number Eighteen, or the several islands in Richmond Bay, or other persons resident therein, to return members to the General Assembly to represent the said town and royalty, be and the same are hereby repealed.

Repeals so much of 19th Vic. c. 21, as authorized Princetown and royalty, &c., to return a member, &c.

III. Princetown and royalty, together with township number Eighteen aforesaid, and the several islands in Richmond Bay, shall be attached to, and shall hereafter be deemed and taken as part of the Third electoral district of Prince County; and all persons owning or occupying real estate, and all residents in the said town or royalty, or township number Eighteen, or on the islands aforesaid, shall be entitled to vote for members to represent the said Third electoral district in General Assembly: provided always, that such persons shall, at the time of voting, be duly qualified in manner by law required for electors of the said Third district of Prince County.

Princetown, royalty and Lot 18, to be attached to 3d electoral district of Prince County.

IV. There shall be one polling division for Princetown and royalty and township number Eighteen, and the islands aforesaid, and the poll shall be held at or near Benjamin Woodside's, and such polling division shall be deemed the fourth polling division for the Third electoral district of Prince County.

Polling divisions for Princetown and royalty and Lot 18.

V. Township number Seventeen shall be separated from the Third electoral district of Prince County, and shall not hereafter be deemed to be within or part of the said electoral district; nor shall any place of polling for the said Third electoral district be held on said township number Seventeen; nor shall any person by reason of holding a property qualification on said township number Seventeen, or by rea-

Township No. 17 to be separated from said 3d district of Prince County.

son of his having resided thereon, be entitled to vote for members to represent the said third electoral district in the said General Assembly, and so much of the hereinbefore recited Act of the General Assembly as heretofore authorized or prescribed township number Seventeen to be part of the said third electoral district of Prince County, or the electors of said Township to vote for members to represent the said third electoral district of Prince County in the General Assembly, and so much of the said recited Act as is contrary to or inconsistent with this Act, in such respects as this Act constitutes Township number Seventeen aforesaid a separate electoral district, shall be, and the same are hereby repealed.

Township No. 17 constituted a separate electoral district.

VI. The village or settlement of Summerside, together with all other parts of said Township number Seventeen, shall hereafter be represented as one electoral district in the General Assembly of this Island, by two members, to be qualified, elected and returned in manner provided, and subject to the enactments and regulations prescribed in the said recited Act for the election and return of members of Assembly for electoral Districts in the said Island; and said Township number Seventeen shall be deemed and known as the fifth electoral district of Prince County; and there shall be one polling division for the said fifth electoral district, and the poll therein shall be held, as heretofore, at Saint Eleanor's,

Meaning of the term of "Electoral District" in this Act when used in a general sense.

VII. Wherever the words "electoral district" or "electoral districts" or "district" are or is expressed in the hereinbefore recited Act in a general sense, and not as referring especially to any one or more particular electoral district or districts, such words shall be deemed and taken to mean and include Township number Seventeen, as constituted an electoral district by this Act; and also to mean and include Princetown and royalty, township number Eighteen, and the said several islands in Richmond Bay, as constituted parts of the third electoral district of Prince County by this Act.

Polling divisions in Prince County.

VIII. And whereas the polling places in divers polling divisions of several of the electoral districts in this Island, as established by the hereinbefore recited Act, have been found inconvenient to the electors respectively interested therein, and it is necessary that the same should respectively be changed to the places hereinafter expressed: Be it therefore enacted, that the polling place of the first polling division of the second electoral district of Prince County shall in future be held at or near Richard Wood's, on Township number eight; the poll for the third polling division of the said second electoral district of Prince County shall in future be held at Allan MacLean's, near the bridge, on township number thirteen; in the third electoral district of King's County, the poll for the third poll-

Polling divisions in King's County.

ing division therein shall in future be held at or near Grand River Bridge; in the fourth electoral district of King's County, the poll for the second polling division therein shall in future be held at or near Sentner's cross roads, on Township number sixty-three.

IX. So much and such parts of the fourth section of the said hereinbefore recited Act as prescribes a polling place to be held at or near Carey's, near the boundary line, between townships numbers seven and eight; also, at or near Barlow's mills, township number twelve; also at or near Donald MacDonald's, head of Narrow's creek, township number fifty-five; also, at or near the Schoolhouse, north end of Mink river road, on Township number sixty-one, shall be, and the same are hereby repealed.

Repeals parts
4th sec. of 19th
Vic. cap. 21.

X. All electors residing on township number twenty-two on the south side of the Princetown road, and all electors residing on the north side of said road on said Township, whose lands front on said road, and all electors not residing on the said township, but having a property qualification thereon as hereinbefore described, shall in future poll their votes at the polling places prescribed in the said recited Act, to be held at or near the church, Anderson's Road, on township number sixty-seven; and such part of township number twenty-two as hereinbefore described, shall hereafter be deemed to be part of the fourth polling division of the first electoral district of Queen's County; and the remainder of township number twenty-two, north of the Princetown road, and the farms not fronting on said road, shall comprise the third polling division of the first electoral district of Queen's County, and the poll shall be held at or near John Bell's mills, anything in the said recited Act to the contrary notwithstanding.

Changes the
polling places
on Lot 22, &c.

XI. In the second electoral district of King's County there shall in future be four polling divisions, the first of which shall comprise township number thirty-eight, and the poll shall be held at or near Carey's, at Saint Andrew's, on the said township; the second polling division shall comprise and include township number thirty-nine, and all that portion of township number forty, south of Saint Peter's bay, and the poll shall be held at or near Saint Peter's mills, on township number thirty-nine; the third polling division shall comprise and include townships numbers forty-one and forty-two, and that portion of Township number forty, north of Saint Peter's Bay, and the poll shall be held at or near Sutherland's, head of Saint Peter's bay, on said township number forty-one; and the fourth polling division shall comprise township number fifty-six, and the poll shall be held at or near Coonahan's, at the cross roads, on said Township.

Changes the
polling divi-
sions in the
second electo-
ral district of
King's County.

Repeals part
of Act 19th Vic.
cap. 21.

XII. So much and such parts of the hereinbefore recited Act as prescribes that there shall be three polling divisions in the second electoral district of King's County, and what townships shall be comprised in each of such divisions, and the places of holding the poll therein respectively, shall be, and the same is hereby repealed.

Qualifications
of electors in
the various
towns, royal-
ties and elec-
toral districts,
&c.

XIII. Every male person of the age of twenty-one years and upwards, being a British subject, and not subject to any legal incapacity, and who shall be also qualified by any one or more of the several qualifications hereinafter next enumerated, shall be entitled to vote at any election hereafter to be held for the election of a member, or members, to represent in the General Assembly of this Island the town, common and royalty, or electoral district, wherein his property qualification shall be situate, or being otherwise qualified by this section, wherein he shall have resided twelve calendar months next before the *teste* of the writ for said election, that is to say: first, every such male person shall be entitled to vote as aforesaid for any town, and the common and royalty thereof, save and except the town and royalty of Princetown, who shall own or be entitled to a freehold estate of and in one whole water lot, common lot, town lot, or pasture lot, situate within such town, or the common or royalty thereof; or who shall own or be entitled to a freehold estate of and in any dwelling house, warehouse, shop, or other building, or any farm or piece of land within any town, common or royalty in this Island, save and except as aforesaid, of the clear yearly value of forty shillings: Secondly, every such male person shall be entitled to vote as aforesaid for any town and the common and royalty thereof, save and except the town and royalty of Princetown, who shall be in the *bona fide* use and occupation or actual possession of any dwelling house, warehouse, shop or other building, or any farm or piece of land within any town, common or royalty in this Island, save and except as aforesaid, of the clear yearly value of forty shillings: provided every person claiming to vote under either of the foregoing property qualifications, shall have owned or possessed, or been in the use and occupation of the same for the space of twelve calendar months previous to the *teste* of the writ for holding the election: Thirdly, every such male person shall be entitled to vote as aforesaid for any electoral district who shall own or be entitled to a freehold estate, or who shall be in the *bona fide* use and occupation or actual possession of and in any dwelling house, warehouse, shop, or other building, or any farm or piece of land within such electoral district, of the clear yearly value of forty shillings: Fourthly, every such male person shall be entitled to vote as aforesaid for any Town, Common and Royalty, or for any electoral district, who, being liable to perform statute labor

on the public roads, shall have actually performed the same, or shall have commuted his said statute labor for money, and duly paid the same, or who being otherwise so liable shall be specially exempted therefrom by statute on account of holding any office, situation or employment; provided always, that every person claiming to vote by virtue of his statute labor qualification, shall have resided in the polling division in which he shall claim to vote twelve calendar months next before the teste of the aforesaid writ of election, and shall produce to the returning officer, if required so to do by him, or any opposing candidate, or the representative of any opposing candidate, a receipt or certificate in writing, subscribed with the name of the overseer of statute labor, or collector of city taxes, for the precinct wherein such person claiming to vote shall have resided for twelve months as aforesaid, testifying to the effect, that such person hath duly performed all such statute labor, or paid all such commutation money, as by law he became liable to pay or perform at any time within twelve months next before the *teste* of the said writ of election.

Persons voting under statute labor qualification, to produce certificate of overseer, &c.

XIV. Where the premises constituting a property qualification shall be owned or occupied by joint tenants or occupants, tenants in common, coparceners or copartners in trade, then not more than one of either of such description of persons respectively shall vote thereon, unless their individual interest therein shall be of the yearly value of forty shillings.

Where property qualification is held by joint tenants, &c.

XV. And whereas there are many persons who are in possession of and entitled to leasehold estate in valuable improved farms, and other pieces of land, the annual rent whereof doth not in the whole amount to forty shillings, and unless otherwise provided for, it might happen that the amount of rent payable by them in such cases, notwithstanding the increased value of the estates in their possession by improvement and buildings made and erected thereon, would not entitle them to the right of voting; therefore, every person who shall be in possession of or entitled to a leasehold estate in and to a farm or other piece of land, which with buildings and improvements thereon would be of the fee simple of thirty-five pounds, whether the annual rent reserved or payable therefor shall or shall not amount to forty shillings, shall at any election hereafter to be holden be entitled to vote for a member or members to serve in the General Assembly for the town, common and royalty, or electoral district, wherein the same may be situate: provided always, that every such person shall, in other respects be qualified as required by this Act.

Persons in possession of lands &c, under lease, the fee simple value of which shall amount to £35, entitled to vote although the yearly rent does not amount to 40s.

XVI. Whenever any elector shall be questioned by or on behalf of any candidate at any election hereafter to be held,

Elector when questioned, to

describe property, title, qualification, &c.

such elector, if he claims to vote on account of property, shall truly describe the same, and where it is situate; and if the property for which he claims to vote shall be held under lease, or agreement for a lease, by *parole*, or in writing, the annual rent payable for the same; and if freehold, or if he claims to vote on the ground of use and occupation or possession thereof only as hereinbefore mentioned, the estimated yearly value thereof; and if he claims to vote because he shall be liable to perform statute labor, or because being otherwise so liable he is specially exempt by any Act of the General Assembly from performing the same, he shall specify where or in what town and royalty or road district, he is or would be liable to perform such labor, and if exempt therefrom, the grounds of such exemption; and all the particulars of such claim to vote as aforesaid, according to the circumstances of the case, shall be taken down in the poll book, and shall be conclusive against every such elector; and every candidate against whom the vote is given, or his substitute, may object to such elector, and direct his vote to be marked "objected;" and also cause the elector to be sworn, and to have administered to him the elector's qualification oath, applicable to such elector, and the oath against fraudulent conveyances and bribery contained in schedules (A.) (B.) and (C), to this Act annexed; and the Sheriff, or other officer presiding for taking the poll, is hereby authorized to administer such oath.

Candidate may object to a vote and cause it to be marked "objected," and elector to be sworn, &c.

Quakers and Moravians may make affirmation.

XVII. Any person being a Quaker or Moravian, whenever an oath is required by this Act, shall be permitted, instead of such oath, to make his solemn affirmation or declaration.

Penalty on persons wilfully and falsely, &c taking any of the oaths required by this Act, or procuring others to do so.

XVIII. If any person shall wilfully, falsely and corruptly take any of the oaths or affirmations appointed and required by any of the provisions of this Act, and be thereof lawfully convicted by indictment or information; or if any person shall corruptly procure or suborn any other person to take the said oaths or affirmations, or any of them, and the person so procuring or suborning shall be thereof convicted by indictment or information, every such person so offending shall be guilty of wilful and corrupt perjury, and shall for every such offence incur and suffer such penalties, forfeitures and disabilities as persons convicted of wilful and corrupt perjury are or may be liable to.

Elector to vote in the polling division in which he resides.

XIX. Every elector qualified to vote for the town or electoral district in which he resides shall vote at any election in such town or district in the polling division in which he resides, and not elsewhere; and the oath of qualification to be administered to and taken by every such resident elector, when required, shall be the oath in the schedule (A), to this Act annexed, applicable to the nature of his qualification.

XX. Every elector qualified to vote in any town or electoral district in which he does not reside, shall vote in the polling division in which the property on which he claims to vote for such town and royalty or electoral district is situate, and not elsewhere; and the oath of qualification to be administered to and taken by every such nonresident elector in this section mentioned, when required as herein provided, shall be the oath contained in the Schedule (B,) to this Act annexed.

Nonresident elector to vote in polling division in which his property lies.

XXI. If any elector, being thereunto required, shall refuse to take any of the oaths in this Act appointed to be taken, or either of them, or to affirm to the effect thereof, then the poll or vote of such person shall not be taken, and the same is hereby declared null and void, and shall be rejected; and if any presiding officer or poll clerk shall neglect or refuse, when thereunto requested as aforesaid, to administer any oath or affirmation to any elector in a competent state of mind to take any such oath or affirmation, or shall otherwise offend in the premises, contrary to the true intent and meaning of this Act, every such presiding officer or poll clerk shall forfeit and pay, for every such offence, a sum not exceeding ten pounds.

If any elector refuses to take any oath required by this Act, &c., his vote to be rejected, &c.

XXII. The clear yearly value in the thirteenth; fourteenth and sixteenth sections of this Act mentioned, shall be estimated by the value of agricultural or other produce which the land or property actually yields, or by the annual value of the buildings thereon erected.

How value mentioned in 13th, 14th and 16th sections of this Act to be estimated.

XXIII. Whenever any Sheriff or returning officer at any election to be held under this Act, has reason to know or believe that frauds and violence are being practised in violation of the rights of electors, by which undue votes are tendered, or that any voter is not qualified or has already voted at the said election, and offers to vote again, or tenders his vote under a false name or designation, or personates or represents himself falsely as being duly qualified to vote, it shall be the duty of such Sheriff, or returning officer, under penalty of ten pounds currency, to administer the oath or oaths authorized by this Act, to such voter, whether he be required so to do by any party or not, of which mention shall be made in the poll book.

Duty of returning officer, &c., where fraudulent votes, &c., are tendered at elections.

XXIV. If any person shall steal or unlawfully or maliciously, either by violence or stealth, take from any Sheriff or returning officer or poll clerk, or from any other person having the lawful custody thereof, or from its lawful place of deposit for the time being, or shall unlawfully or maliciously destroy, injure or obliterate, or cause to be wilfully or maliciously destroyed, injured or obliterated, or make or cause to be made any erasure, addition of names, or interlineation of names, or other material matter, in, to, or upon, or shall aid, counsel or assist in so stealing, taking, destroying, injuring, or obliter-

Penalty for nonperformance of such duty.

ating, or in making any erasure, addition of names, or interlineation of names, other material matter, in, to, or upon any writ of election, or any return to a writ of election, or any poll book, certificate or affidavit, or any other document or paper, made, prepared or drawn out according to, or for the purpose of meeting the requirements of this Act, or any of them, every such offender shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Supreme Court, to be imprisoned for any term not exceeding two years; and in addition to such imprisonment, if the Court shall so think fit, to be fined in such sum as the said Court shall award.

Elections held to supply vacancies in House of Assembly under the 78th and 79th sections of 19 Vic., c. 21, not to affect the right of any person entitled to contest the previous election.

XXV. Whenever any vacancy or vacancies shall happen in the House of Assembly from any cause mentioned in the seventy-eighth or seventy-ninth section of the hereinbefore recited Act, relating to the election laws, the election or elections to be held to supply such vacancy or vacancies, shall not in any manner affect the rights of any person or persons who may be entitled to contest the previous election or elections by, or at which the person or persons whose seat or seats shall have been so vacated may have been returned; and the report of any election committee appointed to try such previous election shall determine whether the member or members, whose seat or seats shall have so become vacant, or any other person, was duly returned or elected thereat; which determination, if adverse to the return of such member or members, and in favour of any other candidate, shall avoid the said previous election, and the candidate declared duly elected at the previous election shall be entitled to take his seat, as if no such subsequent election had been held.

Sheriff, when he advertises holding of polls, also to advertise qualification of electors.

XXVI. Every Sheriff shall, at the time he shall advertise the holding of the poll or polls as prescribed by the hereinbefore recited Act, publish other advertisements describing in substance the qualifications that are required of electors by this Act, the penalty for voting or attempting to vote more than once at such election, and for voting under a false or fictitious name, or for voting without being qualified, which advertisements shall be (or as near as may be) in the form in the schedule to this Act annexed, marked (D); and such advertisements shall be posted up at not less than five conspicuous places, within three hundred yards of the respective places in each polling division appointed for holding such election.

Where advertisements are to be posted.

In what case cause of proving vote good to be on the party in whose favor same is offered.

XXVII. In all cases of scrutiny or investigation of votes, under the hereinbefore recited Act of the nineteenth year of the reign of her present Majesty, chapter twenty-one, after *prima facie* evidence given by the party objecting to any vote or votes sufficient to raise a reasonable doubt of the validity of

any such vote or votes, the burden of proof to establish such vote or votes to be good and valid, shall be on the party to the scrutiny in whose behalf such vote or votes were polled.

XXVIII. Upon every trial for perjury, or other misdemeanor, and in every prosecution for any penalty or other punishment for any breach or violation of this Act, wherein it may be necessary to give evidence of the holding of any Sheriff's Court, or any election, or the opening, duration, or closing of any Sheriff's Court or poll for the election of any member or members of Assembly, or of any particular fact which shall have transpired at any such Court or election, it shall not be necessary to produce the writ of election, or any of the public notices required by law for the opening or holding of such Court or election; but the said recited facts may be proved by the *parol* testimony of the Sheriff or returning officer, or poll clerk, or other credible witness or witnesses, who can testify to the fact; and a copy of the writ of election, and Sheriff's return thereon, where such return shall be made, certified under the seal of this Island, and the name of the Colonial Secretary, subscribed by himself or his lawful deputy thereto, shall in like manner be of itself sufficient evidence of the said writ of election, and of the matters recited in the Sheriff's return to such writ, where a return shall be lawfully made thereon or attached thereto; nor shall it be necessary to prove the signature of the said Colonial Secretary, or of his said deputy, to any such certificate so accompanied by the seal of the said Island.

Upon any trial for perjury, or prosecution for any fine under this Act, what to be sufficient proof of proceedings and holding of Sheriff's Court, &c.

XXIX. All penalties and forfeitures imposed by this Act shall and may be sued for, recovered, levied and appropriated in manner, and subject to the rules and directions prescribed in the eighty-second and eighty-third sections of the herein-before recited Act relating to the election laws.

Mode of recovering and appropriating penalties imposed by this Act.

XXX. Nothing in this Act shall have any force or effect until her Majesty's assent thereto shall be made known, and notification thereof published in the *Royal Gazette* newspaper of this Island; nor until the expiration or dissolution of the present house of Assembly.

Suspending clause.

* * This Act received Her Majesty's assent on the 11th day of October, 1861, and notification thereof was published in the *Royal Gazette* newspaper of this Island, on the 20th day of November, 1861.

SCHEDULES to which this Act refers.

SCHEDULE (A, No. 1.)

OATH to be administered to an elector claiming to vote as a freeholder for the town, common, or royalty in which he resides, saving and excepting the town and royalty of Princetown, and which vote is by this Act required to be polled in the polling division in which the elector resides.

Elector's oath claiming to vote as a freeholder for town common, &c. in which he resides.

You, *A. B.* do swear, that you are by law qualified to vote at this election for the town, common and royalty of in right of and as owner of one whole (town, common, pasture or water) lot. (name which), or in right of and as owner of a freehold estate, consisting of and of the yearly value of forty shillings, (as the case may be), which has now been entered in the poll book as designated by you, and that you have not polled or given a vote for any candidate at this election within this or any other polling division, and that the place of your abode is in the polling division of the town, &c., of and is according to the best of your knowledge and belief within the polling division.

So help you God.

SCHEDULE (A, No. 2.)

OATH to be administered to an elector claiming to vote as a *bona fide* occupier or actual possessor of a building or land of the yearly value of forty shillings, for the town, common or royalty in which he resides, &c., (save and except the town and royalty of Princetown.)

Elector's oath claiming to vote for town, &c. as occupier of building, &c. of the annual value of 40s.

You, *A. B.* do swear that you are by law qualified to vote at this election for the Town and Royalty of in right of your use and occupation or actual possession, held in good faith, of (a dwelling house, warehouse, shop or other building, or any farm or piece of land, as the case may be,) of the yearly value of forty shillings, which has now been entered in the poll book as designated by you, and that you have not polled or given a vote for any candidate at this election within this or any other polling division, and that the

place of your abode is _____ in the _____ polling
 division of the town, &c., of _____ and is according to
 the best of your knowledge and belief within this polling divi-
 sion. So help you God.

SCHEDULE (A, No. 3.)

OATH to be administered to an elector claiming to vote as a
 freeholder for any electoral district in which he resides, and
 which vote is by this Act required to be polled in the poll-
 ing division in which the elector resides.

You, *A. B.* do swear, that you are by law qualified to vote
 at this election for the _____ electoral district of _____
 County in right of and as owner of a freehold estate, consist-
 ing of _____ and of the yearly value of forty shillings,
 which has now been entered in the poll book as designated by
 you, and that you have not polled or given a vote for any can-
 didate at this election within this or any other polling division,
 and that the place of your abode is in the _____ electoral
 district of _____ County, and is, according to the best of
 your knowledge and belief, within this polling division.

*Elector's oath
 when claiming
 to vote as free-
 holder in dis-
 trict in which
 he resides.*

So help you God.

SCHEDULE (A, No. 4.)

OATH to be administered to an elector claiming to vote as an
 occupier, &c., for any electoral district in which he resides,
 and which vote is by this Act required to be polled in the
 polling division in which the elector resides.

You, *A. B.*, do swear, that you are by law qualified to vote
 at this election for the _____ electoral district of _____ County
 in right of your use and occupation or actual possession held in
 good faith, of (a dwelling house, warehouse, shop, or other
 building, or any farm or piece of land, as the case may be,) of
 the yearly value of forty shillings, which has now been entered
 in the poll book as designated by you, and that you have not
 polled or given a vote for any candidate at this election within
 this or any other polling division, and that the place of your
 abode is _____ in the _____ electoral district of _____
 County, and is, according to the best of your knowledge and
 belief, within this polling division. So help you God.

*Elector's oath
 claiming to
 vote as occu-
 pier, &c., in
 district in
 which he re-
 sides.*

SCHEDULE (A, No. 5.)

OATH to be administered to an elector claiming to vote in right of a statute labor qualification, or statute privilege, for any town or electoral district in which he resides, and which vote is by this Act required to be polled in the polling division in which the elector resides.

Elector's oath claiming to vote in right of statute labor in district in which he resides.

You, *A. B.*, do swear, that you are by law qualified to vote at this election for the Town, Common and Royalty of (or for the electoral district of County, as the case may be) in the County of and that* you duly performed your statute labor on a public road or highway, or paid the commutation money prescribed by law, in lieu thereof, for the year ending in the month of last, or present, according to the overseer's certificate in writing, now delivered into my possession, and that you are the person named in the said certificate;*

(If the voter be an overseer of highways, schoolmaster, or other person specially privileged by law from performing statute labor, then, in place of the above words between the asterisks, stating that he duly performed statute labor, repeat here as follows, namely :) by reason of your situation or office of held by you during the time specified for the performance of statute labor, and exempting you therefrom; and that you have not polled or given a vote for any candidate at this election within this or any other polling division, and that the place of your abode is in the polling division of the town, &c., (or in the electoral district of County, as the case may be), and is according to the best of your knowledge and belief within this polling division.

So help you God.

SCHEDULE (B.)

OATH to be administered to an elector claiming to vote in any town or electoral district in which he does not reside, and which vote is required to be given in the polling division wherein his qualification is situate.

Elector's oath when claiming to vote in district in which he does not reside.

You, *A. B.*, do swear, that you are by law qualified to vote at this election for the town and royalty of or —electoral district of (as the case may be) in the right of the property and title which have now been taken down in the poll book, and read to you, and that according to the best of your knowledge and belief the said property lies in this polling division, and that you have not polled or given a vote

for any candidate at this election either in this polling division or any other polling division in this Town and Royalty, or district, (as the case may be), and that the place of your abode is not within this electoral district.

So help you God.

SCHEDULE (C.)

OATH against bribery, and against fraudulent conveyances, to be administered alike, when required, to all classes of voters.

You, *A. B.*, do swear, that you have not received or had for yourself, or any person whatsoever in trust, for your use and benefit, directly or indirectly, any sum of money, office, place, employment, or gift, in order to give your vote at this election for the town and royalty of _____ or the electoral district of _____ (as the case may be), and that you have not before been polled or given a vote for any candidate at the said election for this town and royalty, or electoral district, (or otherwise, as the case may be), and that your place of abode is at _____ (If the voter claims to vote on a property qualification, here add further), and that the property in respect of which you claim to vote at this election hath not been granted or conveyed to you fraudulently, on purpose to qualify you to give such vote. So help you God.

Oath against bribery, fraudulent conveyances, &c.

SCHEDULE (D.)

ELECTION POLL NOTICE.

The qualifications of voters for members of the House of Assembly, as required by the Act of the twenty-fourth year of the reign of her present Majesty, chapter _____ are in substance as follow, namely:

Every voter must be a male person, of the age of twenty-one years, a British subject, not subject to any legal incapacity, and must have been duly qualified for at least twelve calendar months next before the date of the writ of election; and must, in addition, be entitled to one or more of the following qualifications: First, for a town and royalty (excepting Princetown and royalty), must own a freehold estate, consisting of one whole water, common, town or pasture lot, or a freehold estate, of the clear yearly value of forty shillings, consisting, of a dwelling house, warehouse, shop, or other building, or of a farm or piece of land; or must be in the *bona*

Election poll notice.

fide use and occupation or actual possession of any dwelling house, warehouse, shop or other building, or any farm or piece of land of the clear yearly value of forty shillings, the qualification to be within the town, common or royalty, save and except as aforesaid; or who shall be an occupier of eight acres of the reserved lands as regards a vote for Georgetown:

Second, for an electoral district, must own a freehold estate of the clear yearly value of forty shillings, consisting of and warehouse, shop, or other building, or any farm or piece of land, or must be in the *bona fide* use and occupation or actual possession of any such last mentioned premises. Third, for either town or electoral district, the performance of statute labor, or payment of the commutation money for the last year the same shall have become due next before the day of holding the said election, together with the overseer's certificate, and a twelve months' residence in the polling division; or holding situation exempting from statute labor by Act of Assembly.

Every mortgager or *cestui qui* trust in actual possession by himself, or his tenant, of real estate of the yearly value of forty shillings, dower land set off and reduced into possession and value forty shillings *per* year.

The clear yearly value as aforesaid to be estimated by the annual value of the buildings, or by the value of agricultural or other produce yielded by the land.

Wilfully, falsely and corruptly swearing to any of the oaths prescribed by the Act, or procuring or suborning any person so to do is punishable with the pains and disabilities inflicted on persons guilty of wilful and corrupt perjury.

Persons who shall procure themselves to be polled out of the proper polling division shall forfeit five pounds, and their votes to be struck out of poll book.

Persons who shall procure themselves to be polled more than once at the same election for the same town or district, or who shall vote under a false or fictitious name, or personate or vote in the name of any other person, or not being duly qualified to vote and be polled according to law, shall forfeit five pounds for each offence.

A. B., Sheriff,
or Returning Officer.

CAP. XXXV.

An Act to raise funds for the purposes of education by imposing an additional assessment on land in this Island, and on real estate in Charlottetown and Common, and Georgetown and Common.

[Passed April 29, 1861.]

WHEREAS by an Act passed in the present session of the Legislature of this Island, intituled "An Act to consolidate and amend the several laws relating to education," the several Acts relating to free education, in force at the passing thereof, were repealed, and reduced into one Act; but the clauses in the said several Acts relating to assessment were not reenacted in the said recited Act, and it is necessary, in order to give effect to the provisions of the said recited Act, that a revenue for that purpose be raised as heretofore by a tax on land, and otherwise as hereinafter set forth: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

24 Vic. c. 35.

I. There shall be paid annually, during the continuance of this Act, into the hands of the Treasurer of this Island, or his deputies, appointed under the provisions of an Act of the eleventh year of the reign of her present Majesty Queen Victoria, intituled "An Act for levying further an assessment on all lands in this Colony, and for the encouragement of education," in addition to the tax imposed by the said last recited Act, the further sum of one half penny *per* acre, or four shillings and two pence of lawful money of Prince Edward Island for every one hundred acres of land, and so in like proportion for any greater or less quantity, whether wilderness or cultivated, improved or unimproved, contained in the several townships in this Island, and the several islands belonging thereto, except as is hereafter excepted; and the further sum of two shillings for each and every pasture lot granted in the royalty of Charlottetown, whether cultivated or uncultivated; and the further sum of eight pence for each and every pasture lot granted in the royalty of Georgetown, cultivated or uncultivated.

Additional tax payable for township lands,

and pasture lots in the royalties of Charlottetown and Georgetown.

II. The owners or occupiers of at least eight acres of land in the royalty of Georgetown, called reserved lands, in addition to the tax thereon imposed by the second section of the last hereinbefore recited Act, shall pay the further sum of one penny *per* acre on each and every acre of such lands, whether cultivated or uncultivated.

Additional tax payable by owners of reserved lands in royalty of Georgetown.

III. The first annual payment of the said several sums of money, to be paid as aforesaid, under the two last preceding

First annual payment of tax when to be made.

Proceedings for
the recovery of
tax.

Provisions of
11 Vic. cap. 7,
&c. to extend
to tax hereby
imposed.

Powers, autho-
rities, &c.,
contained in
such Acts, to be
applied to the
tax hereby im-
posed.

sections of this Act, by the several and respective owners, proprietors or occupiers of the several and respective lands aforesaid, shall be called for, become due and be made together and at the same time with the first annual payment of land tax or assessment under the said last recited Act of the eleventh Victoria, chapter seven, which shall be called for, be made, and become due next after this Act shall go into operation, and proceedings for the recovery of the tax or assessment hereby imposed on the several and respective lands aforesaid, shall be concurrent and taken together with and in like manner as the proceedings for the recovery of the tax imposed by the said recited Act of the eleventh Victoria, chapter seven, on the said several lands, according to their respective natures and descriptions as aforesaid; and the said tax or assessment hereby imposed shall be called for, be raised, levied, paid, become due, and be recovered, together with and in the same manner as the said tax or assessment imposed by the said recited Act of the eleventh Victoria, chapter seven, and the provisions of said last mentioned Act, and also of the Act passed in the twelfth year of the reign of her present Majesty, chapter seven, intituled "An Act to explain and amend the present Act for the assessment of land and the encouragement of education," and of all and every other Act and Acts of the General Assembly of this Island, now in force in relation to the calling for, raising, levying, paying and recovering the taxes and assessments imposed by the said recited Act of the eleventh Victoria, chapter seven, shall severally be held to extend and apply to the tax hereby imposed, or as if the same had originally been imposed by the said Act of the eleventh Victoria, chapter seven, and had formed part of the tax thereby imposed, and shall be in full force and effect for the purpose of calling for, raising, collecting, levying and recovering the tax or assessment hereby imposed; and all and every the powers, authorities, regulations, forms of proceedings, and deeds, directions, penalties, clauses, matters and things contained in the said recited Acts of the eleventh Victoria, chapter seven, and twelfth Victoria, chapter seven, shall severally and respectively, and in so far as the same are or can be made applicable to this present Act, be duly observed, practised, applied and put in execution in relation to the tax and assessment hereby imposed, as well during the continuance of this Act as after the expiration thereof for calling for, receiving, levying, raising, collecting, paying and recovering the said tax or assessment hereby imposed, and all arrears thereof, as fully and effectually, to all intents and purposes as if the same powers, authorities, rules, regulations, forms of proceedings and deeds, directions, penalties, forfeitures, clauses, matters and things were particularly repealed, and reenacted in the body of this Act with reference to the said tax or assessment hereby granted and imposed, or as if the same had

originally been granted or imposed by the said recited Act of the eleventh Victoria, chapter seven, and had been enacted to be raised thereby, or had formed part of the tax thereby granted and imposed; and the proceedings taken against lands in arrear for the taxes or assessments imposed under this Act, shall or may be joined with the proceedings taken against lands of the same description in arrear of the tax or assessment imposed by the said Act of the eleventh Victoria, chapter seven, according to the description and class of the said lands respectively.

Proceedings against lands in arrear under this Act may be joined with proceedings under 11 Vic. cap. 7.

IV. And whereas there are many valuable establishments, stores, shops, and places of business throughout this Island which have only small tracts of land attached to them, the owners or occupiers of which would therefore contribute in respect thereof but little towards the revenue required to carry out a system of free education under the general assessment on lands imposed by this Act, and it is just and reasonable that they should contribute a proportion for the support of a system, the advantages of which they will enjoy equally with the other inhabitants of this Island: Be it therefore further enacted, that there shall be paid annually during the continuance of this Act, into the hands of the Treasurer of this Island, or his deputies appointed under the provisions of the Act of eleventh Victoria, chapter seven, by the owners, proprietors or occupiers of all buildings occupied as dwelling houses, stores, mills, taverns, distilleries, or mercantile establishments, in this Island, except within Charlottetown and common and Georgetown and common, whereunto not more than ten acres of land are immediately attached, the sum of five shillings each for all such dwelling houses, stores, mills, taverns, distilleries or mercantile establishments, in addition to any assessment paid for the land on which they stand under this Act or the said recited Acts; and by the owners, proprietors, or occupiers of all buildings in this Island, except in the towns and commons last aforesaid, occupied as workshops of tradesmen or mechanics, whereunto not more than ten acres of land are immediately attached, the sum of two shillings and six pence each for all such last mentioned buildings, in addition to any assessment paid under the provisions of this Act, or the said recited Acts for the land on which they stand.

Owners or occupiers of dwelling houses, stores, &c. to which not more than 10 acres of land are attached, to pay 5s. additional for every such dwelling house, &c.

Workshops of tradesmen to pay 2s. 6d. each additional.

V. The payment of the tax last hereinbefore imposed shall be called for and become due at the same time as the tax on lands imposed by the first section of this Act, and each deputy appointed by the Treasurer of this Island, under the eleventh Victoria, chapter seven, shall, when he makes his return with his books and accounts of the various amounts of tax received by him to the Treasurer, as in the last recited

When payment of last mentioned tax shall become due, deputy collectors of land tax to specify the names of proprietors, &c., of

buildings liable
to pay last men-
tioned tax.

Particulars of
summons.

Defendant fail-
ing to disprove
statement con-
tained in sum-
mons, Court to
give judgment
and issue exe-
cution.

Deputy to ac-
count with
Treasurer once
in every three
months.

Tax to be paid
by inhabitants
of Charlotte-
town and com-
mon & Geor-
getown and com-
mon.

Act mentioned, specify and set forth in writing in such books and accounts the names of the owners, proprietors or occupiers of buildings within his district who are liable to pay the tax or sum in the last preceding clause imposed, and what part of said tax or sum has been paid, and what amount remains unpaid under this Act; and the Treasurer shall thereupon, within ten days after receipt of such books and accounts, direct such deputy to sue the persons in arrear within his district of the last mentioned taxes or sums; and the said deputy shall thereupon sue for and recover the same, with costs, from the several persons liable to pay the same, before the nearest Court of Commissioners for the recovery of small debts, to the residence of the deputy; and in the summons issued out of the Court, it shall be stated that the defendant is sued under the fifth section of this Act, as the owner, occupier or proprietor, as the case may be, of any building, in respect of which a tax is imposed in the last preceding clause of this Act, and this statement shall throw upon the defendant the burden of disproving the truth thereof; and if the defendant, at the return of the summons, do not appear, or fail in disproving the statement of liability contained therein, the Court shall, without further proof than of service of the summons, proceed to give judgment and issue execution against him; but in no case, even if the defendant shall disprove the statement, shall the Court award his costs to be paid by the deputy, unless it shall be shewn to them that the conduct of the deputy in making his return and bringing the suit has been vexatious towards the defendant.

VI. The said deputy shall forthwith, on closing his books, and at all events once in every three months, account with, and pay over to the Treasurer of this Island, all sums of money by him from time to time received under the provisions of this Act.

VII. There shall annually, during the continuance of this Act, be charged, raised, levied, collected and paid into the hands of the Treasurer of this Island, or his collectors, to be appointed as hereinafter mentioned, upon and for all lands, tenements, hereditaments and real estate in Charlotte-town and Charlottetown common, and in Georgetown and Georgetown common, for every twenty shillings of the annual value thereof, the sum, rate or duty of three pence on the pound, the same to be become due and to be paid annually by the several and respective owners, proprietors or occupiers thereof, when and so soon as the same shall be called for by the Treasurer of this Island, by advertisement, published in the *Royal Gazette* newspaper of this Island, as hereinafter mentioned.

VIII. Upon every fractional part of twenty shillings of the annual value aforesaid, the like proportion of duty at the rate before directed shall be charged; provided that no rate or duty shall be charged of a lower denomination than one penny.

Tax payable on fractional parts of 20s. annual value.

IX. The five persons appointed under and by virtue of the laws heretofore in force as assessors for each of the towns of Charlottetown and Georgetown and the common thereof respectively, of the tax or assessment imposed by the Act of the fifteenth year of the reign of her present Majesty, chapter thirteen, and who shall be in office at the passing hereof, shall be the assessors under and for the purposes of this Act, in each of the towns and the common thereof respectively, of the fair annual value of the premises in their respective districts, chargeable with the rate or assessment imposed by the two last preceding clauses of this Act; and it shall be lawful for the Lieutenant Governor in Council, and he is hereby required, from time to time, in the event of any vacancy or vacancies occurring, by death, removal, resignation or otherwise, of any such assessor or assessors, to nominate and appoint one or more fit and proper persons, resident householder or householders within either of said towns respectively, or the common thereof, to fill up such vacancy or vacancies, who shall have and be invested with the same powers, and shall be subject to the same rules, fines and regulations, and liable to the same duties as the assessors whose appointment is confirmed by this Act.

Five assessors for each of the towns and commons of Charlottetown and Georgetown respectively.

Vacancies, how supplied.

X. It shall be the duty of such assessors as aforesaid, for Charlottetown and common, and Georgetown and common, under this Act, within sixty days after their appointment, and annually thereafter, during the continuance of this Act, within their respective districts, to assess the owners, occupiers, or proprietors of lands, tenements, hereditaments and real estate therein for the purposes of this Act, and to estimate and determine fairly and justly, as near as may be, what is the fair annual value of such lands, tenements, hereditaments and real estate in the possession of each particular person or persons, and also to assess the fair annual value of all unoccupied lands, tenements, hereditaments and real estate therein; and the said assessors, within the period last aforesaid, shall also deliver in, or cause to be delivered in, to the Treasurer of this Island, in writing, a correct detailed account and return of such their estimate and determination; the return for each town and common to be signed by the assessors thereof, or a majority of them, and to be accompanied and verified by an affidavit in the form in the schedule to this Act annexed, marked (H), to be made by the assessors signing the return,

Assessors shall assess and determine annual value of lands, tenements, &c.

and to be sworn to before any one of her Majesty's Justices of the Peace for the said Island.

Assessors' estimate, &c. of the annual value of lands, &c. binding on the persons named therein, unless appealed from.

XI. Any such estimate, determination or return of the annual value of lands, tenements and real estate in Charlotte-town and common, or in Georgetown and common, when made and returned as required by this Act, and lodged in the Treasurer's office, shall be binding and conclusive on the several persons therein named owning or occupying the same; and the several rates and sums therein specified shall be the rates and sums which the said several persons shall for the year in which such return is made be respectively liable to pay, or which, in case of the same being unoccupied, shall be the amount due and payable in respect of the said lands, tenements, hereditaments and real estate, unless appealed from as hereinafter provided for, and shall be recoverable as hereinafter mentioned.

Penalty on assessors refusing to act, &c.

XII. Any assessor whose appointment is confirmed by this Act, or any person hereafter to be appointed assessor under the provisions hereof, who shall refuse to act, or refuse or neglect to be sworn as hereinafter mentioned, or to make such estimate or return as aforesaid within the period limited therefor, shall be liable to forfeit and pay a fine not exceeding one hundred pounds, nor less than five pounds, to be sued for and recovered, with costs, on the oath of the said Treasurer, or some other credible witness, in Her Majesty's name, before any two of Her Majesty's Justices of the Peace for Queen's or King's County; and the same, when recovered, shall be paid into the treasury of this Island, for the use of Her Majesty's Government: provided always, that if the requisite majority of any such body of assessors hereinbefore required in making a return shall join in making and verifying such return and estimate, then the remaining assessors shall not be liable to a fine in respect of their not having joined therein.

Exempts assessors from payment of fine in certain cases.

Within 7 days after appointment, assessors to be sworn.

XIII. Within seven days after any such assessor shall have been appointed as aforesaid, and before he shall enter on the duties of his office, he shall take the oath prescribed in the form in the schedule to this Act annexed, marked (I), which the Prothonotary of Her Majesty's Supreme Court of Judicature, or either of his deputies, is hereby required and empowered to administer, and to file the same in his office; provided always, that no person heretofore appointed assessor for the purposes contemplated by this Act, and holding that office at the passing hereof, and who shall have been sworn to perform the duties of such office in manner prescribed by the laws in force at the time of the passing of this Act, shall be required to take the affidavit, as is next hereinbefore prescribed.

Assessors in office when this Act passes, not required to be re-sworn.

XIV. It shall be lawful for the Treasurer of this Island for the time being, and he is hereby required, by writing, under his hand and seal, immediately after any such return or estimate of the assessors has been lodged in his office as aforesaid, or in such other way or manner, and at such time or times as he may see fit, to nominate and appoint a fit and proper person to be his collector or deputy in the town and common to which such return relates; and he shall cause an advertisement to be inserted for three consecutive weeks in the *Royal Gazette* newspaper of this Island, calling for the payment of such assessment into the hands of such collector; and for the faithful discharge of the duties of such collector, the said Treasurer shall be responsible; and such collector shall, and he is hereby required, forthwith, to demand and collect the amounts assessed from the person and persons liable to pay the same, or to take proceedings for the recovery thereof, as hereinafter mentioned, and to pay over the amounts received by him, together with an account thereof, to the Treasurer; and every such collector shall be allowed for his trouble the percentage following; that is to say, seven pounds ten shillings *per centum* on the first fifty pounds of assessment, or any less amount in the whole received by him; and on the residue of the amount by him received beyond the said sum of fifty pounds, five *per centum*, and no more.

Treasurer to appoint person to be his collector or deputy.

Responsibility of Treasurer.

XV. The said Treasurer shall forward to each Collector so to be appointed, as in the last clause mentioned, a correct copy of such return or estimate of the assessors for the town and common to which such collector may be appointed; and all persons liable to be rated or assessed, or holding property liable to be rated or assessed therein, shall be entitled to inspect such copy when so forwarded to the collector.

Copy of assessor's return or estimate, to be forwarded to each collector.

XVI. If any person so assessed as hereinbefore mentioned in respect of property within the town and common of Charlottetown, or of Georgetown, aforesaid, shall, within ten days after demand made by the collector, or in case such person be not resident in such town or common, or be absent therefrom within twenty-one days after the first insertion of such advertisement by the Treasurer of this Island, as aforesaid, calling for the payment thereof, refuse or neglect to pay his proportion of the rate or assessment, so determined as aforesaid, the collector shall and may, after the expiration of the said ten or twenty days respectively, as aforesaid, as the case may be, recover such rate or assessment, by action in his own name, in the Mayor's Court for the City of Charlottetown, or in any Court of Commissioners for the recovery of small debts for the city, town or common wherein such assessment shall or may become due; and such Court shall give judgment for the amount of such assessment, as the same may appear on

Persons refusing or neglecting to pay assessment, how proceeded against.

Execution to
issue against
goods and chat-
tels of defen-
dant.

the copy of the assessors' estimate, furnished to such collector by the Treasurer for the time being, together with the costs of such action; and shall issue execution for the amount of such judgment against the goods and chattels of the defendant, which goods and chattels shall be sold under such execution for the amount of such judgment, expenses of sale, advertising, and all incidental expenses; and if any money remain in the hands of the collector, after paying the amount of such judgment and expenses, as aforesaid, the same shall be paid to the owner or owners of the goods and chattels.

Gives right of
appeal within
certain periods.

XVII. Any person so assessed, or his agent, may, within the said period of ten days after demand, or twenty-one days after insertion of such advertisement as last aforesaid, as the case may be, give to the said collector a written notice of his, her, or their intention to appeal from the said rate or assessment; and the said collector shall thereupon notify the said assessors of the town and common for which he is collector, of every such notice of appeal being served upon him within one week after the same shall have been served; and the said assessors shall appoint a time and place to meet to revise the assessment so made by them; and the collector shall give the appellant, or his agent, in writing, or by advertisement in the *Royal Gazette* newspaper of this Island, seven days' notice of the time and place of such meeting of the assessors, to revise the assessment so made by them as aforesaid; and the determination of the said assessors, after such revision, shall be final and conclusive; and in case such revised assessment shall not be paid to the collector within ten days after such determination thereon as last mentioned, then the said collector shall sue for and recover the same in way and manner hereinbefore mentioned.

Determination
of assessors, af-
ter revision, to
be final.

Duty of collec-
tor where suffi-
cient goods, &c.
cannot be found
whereon to le-
vy.

Form of pre-
cept.

Collector to le-
vy on lands, te-
nements, &c.

XVIII. In any case where sufficient goods and chattels cannot be found whereon to levy any such assessment so in arrear, and unpaid, as aforesaid, the collector shall notify and make return thereof to the Treasurer of this Island; and it shall thereupon be lawful for the said Treasurer, and he is hereby required, to award a precept to the collector making such notification and return, in the form in the schedule to this Act, marked (K), commanding him to make public sale of the lands, tenements, hereditaments and real estate, in respect of which, or the ownership or occupation of which the said assessment so in arrear, and unpaid as aforesaid, has been imposed or assessed; and the collector shall, under said precept, levy on such lands, tenements, hereditaments and real estate, and make public sale thereof at the Court House in the town and common wherein the same may be situate, after having given six months' notice thereof in the *Royal Gazette* newspaper of this Island; and out of the proceeds of

such sale, he shall pay into the hands of the Treasurer of this Island the amount of the assessment; and after retaining and deducting an amount sufficient to defray the expenses incurred by such advertising and sale as aforesaid, and other incidental expenses, shall pay the balance to the owner or owners of the lands, tenements, hereditaments or real estate, so assessed and sold; and the collector is hereby authorized and directed to make and execute a deed to the purchaser or purchasers of such lands, tenements, hereditaments and real estate, at his, her or their expense; which deed, when so executed and registered, together with the precept authorizing the sale, shall vest in such purchaser or purchasers a good and sufficient title, seizin and estate in fee simple of and in the premises therein described, without entry or possession given, against all the former holders or owners thereof, subject only to the conditions of the original grant thereof from the Crown; provided always, that in case of any such sale of lands, tenements, hereditaments or real estate, as aforesaid, under the operation of this Act, an equity of redemption shall nevertheless be open to the former owner or owners, proprietor or proprietors, his, her or their agents, heirs or assigns, for the space of two years next after the day on which the same shall have been sold, he, she or they repaying the purchase money, with lawful interest thereon, and also all reasonable expenses attending the same, and a fair allowance for such improvements as shall or may have been made thereon, which, in case of a dispute, shall be ascertained by the Supreme Court.

Proceeds of sale
how disposed of

Collector to execute a deed to purchaser, which when registered to vest in purchaser a sufficient title in fee simple without entry or possession.

Equity of redemption in such cases.

XIX. Every such collector appointed to collect in Charlottetown and common, or Georgetown and common, as aforesaid, shall, within three months after his first appointment, and once in every three months thereafter, account with and pay into the hands of the said Treasurer all such sums of money as he may from time to time have received; and upon refusal or neglect to account for and pay in the same as aforesaid, or if he shall not perform his several duties hereinbefore set forth, such collector shall, for each and every offence, neglect or refusal, forfeit and pay to Her Majesty, her heirs and successors, a fine not exceeding one hundred pounds, to be recovered by bill, plaint or information in the Supreme Court of Judicature of this Island, and, when recovered, to be paid into the treasury for the use of the government thereof.

Collector to account with Treasurer every 3 months, and pay into his hands all sums by him received

Penalty for refusing or neglecting to account, &c.

Mode of recovery and application thereof.

XX. The book or books in which the assessment in Georgetown, under the Act of the fourteenth year of the reign of her present Majesty, chapter twenty-eight, and any other Act hereafter to be passed in lieu or amendment thereof, is, or shall be kept or recorded, shall at all times be open to the inspection of the said five persons appointed to, and holding from time to time, the office of assessor for Georgetown, under this Act;

Books in which assessments for Georgetown are recorded to be open to inspection of assessors.

Penalty on persons refusing to allow such inspection.

Mode of recovery of penalty.

Allowance to assessors for Charlottetown and common, & Georgetown and common.

Treasurer to keep a separate account to be laid before House of Assembly.

Moneys raised under this Act how applied.

Amount raised under this Act not proving sufficient for the purposes thereof, deficiency how supplied.

Posting of advertisements extended from first Tuesday in September to any other day in September, not later than 15th.

and if any person, in whose legal keeping any such book or books is, or are, or may be placed, shall refuse to allow the inspection of such book or books, in manner and to such persons as aforesaid, such person shall be liable for every such offence to the fine of five pounds, to be recovered before any one of Her Majesty's Justices of the Peace for this Island, on the oath and in the name of any of the aforesaid five persons, so appointed assessors for Charlottetown or Georgetown respectively, as the case may be.

XXI. There shall be paid out of the treasury of this Island to each of the said persons holding the office of assessor for Charlottetown and common the sum of four pounds *per annum*; and for Georgetown and common the sum of twenty shillings *per annum*, under this Act; provided they shall well and faithfully discharge their duties, and make due return as aforesaid to the Treasurer of this Island; such respective sums to be paid in the usual manner, by warrant drawn on the treasury of this Island by the Lieutenant Governor thereof.

XXII. The Treasurer of this Island shall keep a separate and specific account of all moneys raised and applied by virtue of this Act, which account shall be annually laid before the House of Assembly within ten days next after the termination of the financial year.

XXIII. The moneys raised by virtue of this Act shall be appropriated to the purposes of general education as hereinbefore set forth, or as may be hereafter directed by any Act of the Legislature of this Island; and if the amount hereby raised shall not suffice for the purposes aforesaid, then there shall annually, during the continuance of this Act, be paid out of the moneys from time to time being in the treasury of this Island, an amount sufficient to make good such deficiency, and to carry out the purposes of this Act, and to discharge the payments thereby required to be made.

XXIV. The advertisements mentioned in the second section of the Act of the twelfth year of the reign of her present Majesty, chapter seven, and therein required to be posted up in Charlottetown, Georgetown, and Saint Eleanor's, and to be published in the *Royal Gazette* on the first Tuesday in September in every year, shall and may be posted up in Charlottetown, Georgetown, and Saint Eleanor's, and published in the *Royal Gazette* as aforesaid, either on the first Tuesday in September as directed by said section of said Act, or any other day in September (Sundays excepted) not later than the fifteenth day of September in every year, as to the Treasurer shall seem meet; and the so posting up and publishing of the said advertisements on any day in September, not later than fifteenth, as aforesaid, shall be valid and effectual for all the

purposes of the said last mentioned Act of the twelfth Victoria, chapter seven, or of any other Act of the General Assembly relating to the recovery of land assessment, or tax or duty on property of any kind or description.

XXV. This Act shall be and continue in force for the period of two years from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

Continuance
of Act.

SCHEDULES to which this Act refers.

SCHEDULE (H.)

Form of assessors' oath, in verification of return.

We, *A. B., C. D., E. F., G. H., and J. K.,* (or so many of the assessors as make the return), Assessors for Georgetown and common, or Charlottetown and common, (as the case may be), under the provisions of the twenty-fourth Victoria, chapter *do hereby severally make oath, and say, that the estimate and determination hereunto annexed is a just, fair and impartial one, to the best of our skill and belief.*

Form of assessors' oath, in verification of return.

So help us God.

SCHEDULE (I.)

I, *A. B.,* do swear, that I will diligently, faithfully and impartially execute and perform the duties of an assessor (for Charlottetown and common or Georgetown and common, as the case may be,) as prescribed by law, and according to the best of my knowledge and ability.

Assessor's oath of office.

So help me God.

SCHEDULE (K.)

Form of precept to collector to sell real estate.

To *A. B.,* the collector for Charlottetown and common, (or Georgetown and common, as the case may be,) appointed under the Act intituled (here insert the title of this Act.)

Whereas the assessors for Charlottetown and common, (or Georgetown and common, as the case may be,) appointed by me under the provisions of the said Act, have assessed (here describe the property situate in Charlottetown aforesaid, or otherwise, as the case may be,) pursuant to the said Act; and the said assessment, together with costs, amounts to the sum

Precept to collector to sell real estate.

of currency ; and the notices required by law having been duly given, and the amount of the assessment remaining still unpaid, these are therefore to authorize and require you, the said collector, to take so much of the said real estate as will satisfy the said assessment, with costs, and the same to advertise, sell and dispose of according to law ; and you are to make due return of this precept unto me, and also have the money ready as directed by this Act.

Given under my hand and seal this day of
A. D. 186 and in the year of her present Majesty's
reign.

C. D., Treasurer. (L. S.)

CAP. XXXVI.

An Act to consolidate and amend the several laws relating to education.

[Passed April 29, 1861.]

WHEREAS the laws now in force establishing a system of free education in this Island require consolidation and amendment :

Repeals 15 Vic.
c. 13; 16 Vic.
c. 2; 17 Vic. c. 3;
18 Vic. c. 12;
20 Vic. c. 17;
23 Vic. c. 14;
23 Vic. c. 15,
except as here-
inafter except-
ed.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, the several Acts hereinafter mentioned, namely: an Act made and passed in the fifteenth year of the reign of her present Majesty Queen Victoria, chapter thirteen; an Act made and passed in the sixteenth year of the same reign, chapter two; an Act made and passed in the seventeenth year of the same reign, chapter three; an Act passed in the eighteenth year of the same reign, chapter twelve; an Act of the twentieth year of the same reign, chapter seventeen; an Act of the twenty-third year of the same reign, chapter fourteen; and an Act of the same year of the same reign, chapter fifteen, (except as hereinafter excepted, and for the purposes hereinafter mentioned), shall be, and the same are hereby severally and respectively repealed.

Board of Edu-
cation hereto-
fore appointed,
to continue un-
der this Act.

II. The Board of education heretofore established and appointed, and in operation at the passing of this Act, shall be, and continue to be, the Board of education for this Island, under the provisions of this Act, and shall consist of nine persons, instead of seven, as heretofore authorized; power being hereby given to the Lieutenant Governor and Council to appoint two members in addition to the said seven, as hereinafter provided, five members of which said Board, including the secretary thereof, shall be a quorum; which nine persons shall meet regularly on the last Thursday in every month in each year, and shall give notice of the place and hour of every

such monthly meeting, by advertising the same in the *Royal Gazette* newspaper of this Island, at least ten days previous to every such meeting respectively; and the said board may meet on such other and further days as they may deem necessary from time to time, without such notice being required to be given.

III. The said Board shall nominate and appoint one of their number Secretary of the Board; and the said Secretary shall be paid the sum of fifty pounds per annum out of the treasury of this Island, in half-yearly payments, for his services, and for providing necessary stationery, and for other contingent expenses; and each other member of the Board shall receive nine pounds yearly for his services, subject to a deduction of fifteen shillings for every time he shall be absent from the said Board at any of its monthly meetings.

Board to appoint a Secretary.

Allowance to members of Board.

IV. It shall and may be lawful for the Lieutenant Governor, by and with the advice of Her Majesty's Executive Council of this Island, within one month after the passing of this Act, to appoint two fit and proper persons as members of the Board of education, in addition to the seven persons now composing the same; and at any time to remove or supersede the said Board of education, appointed as aforesaid, or any Board of education hereafter to be appointed, under this Act, or any member thereof, and to nominate and appoint a new Board of education, or new member thereto, instead of the old Board, or member thereof so removed, or superseded; and when and so often as any vacancy shall occur in such Board by any death, dismissal, removal or otherwise, it shall and may be lawful for the Administrator of the government for the time being, by and with the advice and consent of Her Majesty's Executive Council of this Island, to appoint a fit and proper person to fill up such vacancy.

Lieut. Governor &c., within one month after passing of this Act to appoint two additional members of Board of education.

Vacancies in Board how filled up.

V. The Board of education shall, before granting a license to teach to any person who shall have appeared before them to be examined for the office of teacher, save and except persons already licensed, and now holding certificates of qualification as teachers from the Board of education, require and receive from the party applying for such license, a certificate, signed by the teacher of the Normal school, to the effect that such applicant has attended and received instruction and training at the said Normal school for a period of not less than five months; and which five months' attendance at the Normal school may be given either shortly before or after the examination passed before the Board of Education; provided always, that any such candidate for the office of teacher as aforesaid, who shall have attended at the Normal school for the specified period of five months, and shall, nevertheless, on being

Applicants for license to teach shall produce certificates from teacher of Normal School of their attendance for five months.

Schoolmaster,
&c., discontinu-
ing teaching for
2 years not to
resume without
re-examination

Board may dis-
pense with at-
tendance at
Normal School
in certain cases

Board author-
ized to grant
extra certifi-
cates.

Board with Vi-
sitor, to prepare
forms, &c., for
making returns
and conducting
proceedings
under this Act.

examined before the said Board of education, not be deemed entitled to his certificate of qualification or license to teach, shall be allowed to submit himself again for examination at any subsequent meeting of the Board, and shall, in the meantime, continue in attendance at the Normal school; provided further, that no schoolmaster or mistress, licensed to teach under this Act, who shall have been, or may, or shall hereafter be absent from this Island, or shall have discontinued the practice of teaching, or not been employed therein under any agreement to teach, as in this Act specified, for the space of two years together, shall hereafter be permitted or be qualified to teach under this Act, unless he or she shall again appear before the said Board of education and be examined, and receive a new certificate or license as aforesaid; provided always, that no such licensed teacher as aforesaid shall be required to attend at the Normal school, preparatory to receiving a new certificate or license, if the said Board, after examination, shall see fit to dispense with such attendance, anything in this Act to the contrary thereof notwithstanding.

VI. If at any monthly examination of the Board it shall appear that any candidate has proved his qualification to be not only equal, but superior to those required by law, it shall be in the discretion of the said Board to grant to such candidate an extra certificate to that effect; every person who shall have studied in and received a certificate or diploma from any British or provincial training institution, according to Stowe's system, shall be entitled to the same privilege and advantage in obtaining a license of qualification for a district teacher, as those persons holding certificates of attendance at the Normal school in this Island; provided such certificate or diploma as aforesaid, shall have been duly obtained within two years previous to the application of the person therein named for a license to teach as aforesaid.

VII. It shall be the duty of the Board of education, constituted under this Act, assisted by the Visitor of schools, to prepare suitable forms and regulations for making all returns required by this Act, and conducting all necessary proceedings thereunder; and to cause a copy of the same, with such instructions as they shall deem necessary for the guidance of all district and other schools, the same not being inconsistent with the provisions of this Act, as also a copy of so much of this Act as relates to education, and regulates district schools and teachers, to be furnished to each teacher, from time to time, having an engagement to teach under this Act; which Act and documents shall be at all times kept in each school-house by the teacher, and not to be removed therefrom, but be open to the inspection of the trustees of such school, and all persons authorized by law to visit the same.

VIII. That upon any complaint being made to the Board of education of gross misconduct or neglect of duty on the part of any person holding a certificate as a district teacher, under this Act, or any former Act hereby repealed, the said Board, after due investigation, and satisfactory proof thereof had, shall have power to cancel and revoke the certificate held by such district teacher as aforesaid, and shall also have the same power, if any such teacher as aforesaid, having entered into an engagement to teach in any district as hereinafter mentioned, do not complete the whole term of his engagement, unless prevented from so doing by sickness or other incapacity, or unless the said engagement be dissolved by order or permission of the Board.

Board may investigate complaint against teacher.

IX. It shall be the duty of the Secretary of the Board of education, as heretofore, to keep a book or register, in which from time to time shall be entered the several school districts in this Island, properly constituted, and being in operation, and having a teacher therein entitled to support under this Act; and it shall be the duty of the inhabitants or teachers of all school districts hereafter to be established and claiming support under this Act, to cause the particulars and extent thereof to be forwarded to the Secretary of the Board of education, who shall thereupon enter and register the same in rotation as they come into his office, in his said book or register; and all such school districts, erected after this Act shall go into operation, shall be entered and registered within three months after the day when the determination of the said Board of education shall be notified respecting the same as hereinafter mentioned, and when the number of districts entered, registered and claiming support under this Act, including all school districts which shall have been registered by the Secretary of the Board of education, under the laws in force at the time of the passing hereof shall amount to two hundred and fifty, then it shall not be lawful for the said Board to sanction the erection of any new district, nor shall such district or teacher therein, be entitled to any allowance under this Act, until the same has been referred to the Lieutenant Governor in Council, and the erection of such district and granting of such allowance shall have been sanctioned by a special order made by the Lieutenant Governor, by and with the advice and consent of Her Majesty's Executive Council, directed to the said Board of education.

Duty of Secretary of Board of education.

School districts not to exceed two hundred and fifty, unless sanctioned by special order of Governor in Council.

X. It shall be lawful for the Board of education, established or appointed under this Act, in manner and form as the Board of education has been authorized to do under the laws in force at the time of the passing hereof, to receive and take to themselves and their successors in office, deeds and conveyances of the pieces of land whereon the schoolhouses

Board of education may in certain cases take conveyance of school sites in trust for inhabitants of school districts.

now or hereafter to be erected, and claiming maintenance under this Act, shall be situate, (where the owners thereof shall not prefer conveying them to the trustees of the district, or shall not otherwise secure them to the inhabitants of the district by conveyance) and to hold the same in trust for the inhabitants of the district wherein the same are situate, for the purposes of education, and of this Act.

Mode of changing sites of schoolhouses.

XI. When and as often as at least two thirds of the inhabitants, resident householders, within any school district, now registered or hereafter to be registered or established under this Act, shall desire to alter the site of the schoolhouse therein, and shall signify such their desire, in writing, to the Board of education, specifying therein the site to which the schoolhouse is proposed to be removed, and being also accompanied by a written memorandum from the owner or lessee of the contemplated site, offering to execute a deed or lease thereof to the Board of education, or the trustees of such school for the purposes thereof, it shall be lawful for the said Board, if they shall see fit so to do, to make an order for such alteration to take effect, when and so soon as the contemplated site shall be conveyed to the Board of education, or otherwise, in accordance with the last preceding section of this Act.

Board, &c. may alter, enlarge, &c., school districts, &c., and change sites of schoolhouses, &c.

XII. The Board of Education for the time being, with and subject to the control and consent of the Administrator of the Government in Council, shall have full power and authority to alter, enlarge, or diminish the size or boundaries of any school district or districts heretofore established, or hereafter to be established under this Act, where circumstances may render the same necessary or desirable, and at the same time to change the site of the schoolhouse therein, so as to meet the altered circumstances of the district, and to make all orders necessary for effecting and perfecting such change of site; and in any case, or cases, where an application shall be made in writing to the Board of education, signed by at least five inhabitants, householders in any such district, to cause any such alteration to be made as aforesaid, either in the district in which such inhabitants may reside, or any other adjoining district, so as to render the same more suited to the convenience of the respective inhabitants, it shall be lawful for the Board of education, if in its discretion it thinks such a course necessary, to nominate and appoint three competent persons, not being parties resident or interested in the district, or either of the districts respecting which the application may have been so made, to examine into the particulars; and such persons, so appointed as aforesaid, after notice of their intention so to do, shall have been posted, for at least six days previous, on the schoolhouse in the district, or if the application shall concern more than one district, then on the respective

Board may appoint three persons to inquire into and report upon nature and extent of alterations.

schoolhouses in the several districts so concerned, shall attend at such time and place in such district, or either of such districts respectively, as shall in such notice be specified, and shall personally then and there proceed to make inquiry in such manner, and to such extent, as they, or a majority of them shall deem requisite; and if they think that the interest or convenience of the inhabitants would be promoted by an alteration in the boundaries of such district, or districts, respectively, they shall fix and decide upon the manner or define the extent of such alteration, and shall thereupon report such their opinion and determination, under their hands, or the hands of the majority of them, to the Board of education, whose order or decision thereon, when sanctioned by the Administrator of the Government in Council, shall be conclusive: and upon such order of the Board of education being so confirmed, the same shall be duly notified to the inhabitants of the district or districts, respectively, regarding the boundaries or extent of which such determination shall have been made, and an alteration in the registry shall thereupon be made accordingly.

XIII. Every person who shall be nominated and appointed for the purposes in the last preceding clause mentioned, shall be entitled to receive from the treasury of this Island eight pence *per* mile for each mile necessarily travelled by him to and throughout such school district or districts respectively, and also the sum of five shillings for the report in writing, and for transmitting the same to the Board of education, the same to be paid on producing a voucher and certificate therefor, signed by the secretary and three members of the Board of education; provided that the Board of education therein certify to the Lieutenant Governor in Council, that the application on which the commission has been issued has been of a just and reasonable nature; and if otherwise, then the expenses aforesaid shall be borne by the original applicants themselves.

Fees of Commissioners.

Proviso.

XIV. All school districts as now registered by the Board of education, under and by virtue of the laws in force at the time of the passing of this Act, are hereby declared to be established and confirmed as school districts, and shall be entitled to all the rights and benefits conferred upon or belonging to established school districts by this Act, notwithstanding any want of form, or any error or irregularity whatsoever, in the mode of making any original application for the laying off, defining, or establishing of any such districts, or in any other proceeding, act, matter, or thing necessary to be had, done, or performed under such laws as aforesaid, prior to, or in respect of any such registration whatsoever; and that a certificate of the registry of any such district as aforesaid, or of any

All school districts registered at the passing of this Act hereby confirmed, notwithstanding any want of form, &c.

school district hereafter to be registered under or pursuant to this Act, granted under the hands of a majority of the Board of education, or under the hand of the Secretary of said Board for the time being, shall be *prima facie* evidence of the establishment of such district respectively in all actions, suits or other proceedings in any Court of law or equity, or before any Court or tribunal whatsoever, in all matters touching or relating to such school district, or the school therein; or where it may be necessary to prove the establishment of any such district.

Mode of proceeding where schools have been established within three miles of each other.

Disputes, how settled.

Schoolhouse may be removed to form a new school district.

Board of education may suspend maintenance in certain cases.

XV. If any school in a district established by the laws heretofore in force, and claiming maintenance under this Act, shall be nearer to any other school established, or to be established, than three miles, and it shall appear to the Board of education, either from the paucity in the number of the scholars attending the same, or either of them, or other local circumstances, that both the said schools should not receive such maintenance at the same time; or if a dispute should arise between the inhabitants of such districts, as to which is entitled to maintenance, or most entitled to receive the same, and an application shall be made, in writing, to the Board of education, signed by at least five inhabitants, householders in such district, or either of them, to have the dispute decided and settled, then, and in either of such cases, it shall be lawful for the Board of education, if it think the circumstances of the case require the same to be done, to nominate and appoint three persons, being Justices of the Peace or Commissioners for the recovery of small debts, resident near to, but not being parties resident or interested in, either of the districts, to examine into the particulars; and such Justices or Commissioners, after notice of their intention so to do shall have been duly posted, for at least six days previous, on each of the schoolhouses, shall attend at such time and place, in either of the said districts, as shall in such notice be specified, and shall personally then and there proceed to make inquiry, in such manner and to such extent as they, or a majority of them shall deem requisite, and shall thereupon fix and determine which of the said schools in the district in dispute is most entitled to maintenance; and if they think that either of the schoolhouses should be removed to any particular site, so as to form a new district entitled to maintenance, they shall fix upon the same, and report such their opinion and determination, under their hands, or the hands of the majority of them, to the Board of education, whose decision thereon shall be conclusive; and the said Board of education shall be, and they are hereby empowered to withhold or suspend the maintenance claimed by such schools, or either of them, and either entirely, or until such time as the schoolhouse shall have been removed, in accordance with the opi-

nion or recommendation contained in the report of the Justices or Commissioners, or to make such other order therein as to the said Board shall seem meet; and such order and determination of the Board of education shall be duly notified to the inhabitants of the districts in dispute.

XVI. Each Justice of the Peace, or Commissioner of small debts who shall be nominated and appointed for the purpose or purposes in the last preceding clause mentioned, shall be entitled to receive from the treasury of this Island the sum of eight pence *per* mile for each mile necessarily travelled by him to and throughout such school districts; and also the sum of five shillings for the report in writing, and for transmitting the same to the Board of education, the same to be paid on producing a voucher or certificate therefor, signed by the Secretary and three members of the Board of education.

Mileage to be allowed to Justices of the Peace, &c., for duties performed under preceding section of this Act.

XVII. In all cases where the site of a schoolhouse within any established district is legally altered, under the provisions of this Act, and such schoolhouse is situated upon land held under lease, deed, or otherwise, the trustees of such school district shall be, and they are hereby authorized and empowered to remove the schoolhouse or building from its former site; unless there be a special clause in such lease or other instrument under which such last mentioned site was held, prohibiting such removal.

When site of schoolhouse is altered, trustees of district may remove building, unless, &c.

XVIII. And whereas it is desirable to provide for the proper choice of such further school districts as may hereafter be required; and to have the extent and boundaries thereof as heretofore accurately defined, and to provide for the proper choice of the sites of schoolhouses: Be it therefore enacted, that when and so often as the inhabitants of any settlement, township or district shall desire the erection of a new school district near to their place of residence, and not less than five such inhabitants, being householders, shall make request in writing, notifying such their desire to the said Board of education, then it shall be the duty of the said Board of education to nominate and appoint a Justice of the Peace or Commissioner for the recovery of small debts, resident near to, but not being a party interested in such proposed district, to examine into the same; and it shall be the duty of such Justice or Commissioner, after notice of his intention for such purpose having been duly posted, for at least six days, in three of the most public places in the settlement or district where such inhabitants shall reside, to attend at such place, and there personally to make such inquiry in such manner and to such extent as by him shall be deemed requisite, and thereupon to fix and determine upon the most proper and

Mode of determining sites for schoolhouses and limits for school districts.

eligible site or sites for such schoolhouse or schoolhouses, and the proper limits and boundaries of the district or districts thereof, and shall report upon such his opinion and determination in writing, under his hand, to the said Board of education, whose decision thereon shall be conclusive; and if the said Board shall approve of the erection of any such school district, and the special order and sanction of the Governor in Council for that purpose, as hereinbefore required in such cases, and the requisite funds for the support thereof can be obtained, they shall notify the same to the said inhabitants, and on the other requisites for school districts, under this Act, being complied with, shall cause the said district to be registered in the book to be kept by the Secretary, as hereinbefore mentioned.

Justices' or
Commissioners'
fees.

XIX. Every Justice of the Peace or Commissioner who shall be nominated and appointed for the purpose or purposes in the last preceding clause mentioned, shall be entitled to demand and recover from the applicants for his trouble the sum of eight pence *per* mile, for each mile travelled by him to and throughout such proposed school district, and the sum of five shillings for his report in writing, and for transmitting the same to the Board of education.

Allowance to
districts re-
quiring assist-
ance to build
schoolhouses.

XX. When any new school district shall hereafter be applied for and erected, and the School Visitor shall certify that the inhabitants thereof are in poor circumstances, and require pecuniary assistance to enable them to build a schoolhouse thereon, then it shall be lawful for the Lieutenant Governor in Council to grant the sum of five pounds to the trustees of such district, to be expended in erecting such schoolhouse.

Dimensions of
schoolhouse.

XXI. Every schoolhouse hereafter to be erected and used as such within any district now established or hereafter to be established, under this Act, shall not be less in clear area than four hundred square feet, nor in the height of post than nine feet clear between the floor and ceiling.

Schoolhouse
erected on
church grounds
how to obtain
benefits of this
Act.

XXII. In all cases where a schoolhouse is now or shall hereafter be erected on church grounds, and the trustees or managers of such church property are desirous of obtaining the benefits of this Act, and of having such school established as a district school, a lease of such schoolhouse shall be given by the parties in whom such property may be vested, or who shall have the legal control over the same, to the Board of education for the time being, to hold to them and their successors in office for such term as may be required for the purposes of this Act, or as may be agreed upon in that behalf.

Schoolhouse
may, with con-
sent of majority

XXIII. The public schoolhouse in every school district established or regulated under this Act may, with the consent

of the majority of the trustees thereof, be used by the licensed teacher thereof for the purpose of teaching night or evening classes therein, for his or her own benefit; and such schoolhouse may be used as a place of public worship, or for any other lawful public meeting, with the consent of the trustees as aforesaid, and at such time as they may appoint; provided always, that in no case shall it interfere with the duties of such licensed teacher, under this Act; and provided further, that the Board of education shall have full power to prevent any such public schoolhouse being used at any time during the regular school hours in each day for any other purpose, or by any other person than such licensed teacher as aforesaid for teaching a public school therein under this Act.

of trustees, be used by master for night classes.

XXIV. No schoolmaster or teacher shall be entitled to any allowance by virtue of this Act, except teachers mentioned in the sections hereof, unless the inhabitants of his school district shall have first provided a sufficient schoolhouse to be exclusively used for that purpose, (except as hereinbefore provided for), and also that there shall have been at the least forty children between the ages of five and sixteen years, resident within his school district for the six months immediately preceding the period of his claiming his allowance, and that the average daily attendance of scholars during the said six months shall not have been less than eighteen; provided always, that this enactment shall not extend to school districts already registered, or hereafter to be registered, under this Act, in which there shall not be the number of forty scholars within the aforesaid ages residing, if the daily average attendance of such children at the schools therein amount to eighteen.

No schoolmaster, except, &c. to be entitled to any allowance, unless a sufficient schoolhouse be first provided.

Proviso.

XXV. And whereas there are certain settlements in this Island, not included within the limits of school districts heretofore established, and where the requisite number of forty children within the ages of five and sixteen years cannot be found within one and a half miles of a central part, then, and in every such case, on a written requisition made by the inhabitants thereof to the Visitor of schools, it shall be the duty of the said Visitor to make inquiry into the circumstances of such application, and as to the number of children within the ages aforesaid within the said limit; and the said Visitor shall make a report in writing to the Board of education, who, having duly considered the circumstances of the case, may, if they shall think proper so to do, and subject to the approval of the Lieutenant Governor in Council, authorize the erection of such settlement into a minor school district; and the registration thereof as such, and building committees and trustees may thereupon be appointed for such minor district in the same manner as in other cases; and such trustees may be an-

Settlement where 40 scholars cannot be found.

Visitor to report to Board of education, who may authorize minor school district.

School district to be constituted as in other districts.

Teacher to receive thirty shillings for each scholar, &c.

nually elected, and shall have the same power as trustees in those districts where the requisite number of forty scholars can be found; and the teacher engaged to teach in such minor district where the number of scholars is less than forty, shall also be subject to the same rules and regulations as in cases where there are forty scholars, and shall be entitled to receive from the treasury of this Island, on production of certificates, signed as in other cases, under this Act, by the trustees of the district and the Secretary of the Board of education, if such teacher be a male, the sum of thirty shillings *per annum* for each scholar taught by him, calculating the same according to the daily average attendance, as shown by his register or journal; and if a female teacher, the sum of twenty shillings *per annum* for each scholar taught by her in like manner; such certificate to state the number of scholars actually taught, according to such daily average.

Classification of district teachers or masters.
First Class.

Second Class.

XXVI. There shall be only two classes of district school teachers or masters, who shall be licensed to teach in this Island, of whom the first or lowest class shall be competent to teach bookkeeping, English grammar, reading, writing, arithmetic and geography, without the use of the globes; and of whom the second or highest class shall, in addition thereto, be competent to teach algebra, geometry, trigonometry, mensuration, land surveying, navigation and geography, with the use of the globes; and candidates for either class shall prove their capability of teaching before the Board of education, as hereinbefore by the fifth section of this Act prescribed.

Recital.

XXVII. And whereas by the Act of the twenty-third Victoria, chapter fourteen, it was provided, in order to render more efficient the system of public instruction in this Island, that all school teachers heretofore licensed by the Board of education should undergo a reexamination before the said Board, and that every teacher who should submit to such reexamination, and receive a certificate of qualification, and should thereafter be licensed in accordance with the provisions of the laws then in force respecting education, and who should conform in all respects to the terms and directions in said laws, should be entitled to an increase of five pounds to the yearly salary then by law allowed; and every teacher refusing to submit to such reexamination, or upon a reexamination should not be deemed entitled to a certificate, should be subject to a deduction of five pounds from such salary.

Salaries of teachers not re-examined, and obtaining certificates before passing of Act of 23d Vic. c. 14.

XXVIII. Be it therefore enacted, that every school teacher, licensed by and holding a certificate from the Board of education previous to the passing of the said recited Act of the twenty-third Victoria, chapter fourteen, who shall not have passed an examination, and obtained a certificate from the

said Board subsequently to the passing of the said Act, and who shall decline or refuse to submit to be reexamined by the said Board; or having submitted to such reexamination, shall not be deemed entitled to a certificate of qualification, shall be allowed to receive at the rate of forty-five pounds *per annum* for teaching, if of the first class; and at the rate of fifty pounds *per annum* for teaching, if of the second or highest class, and no more; the same to be paid by quarterly payments, in the way and manner hereinafter by the thirty-sixth section of this Act provided.

XXIX. Every school teacher licensed by the Board of education since the passing of the said recited Act of the twenty-third Victoria, chapter fourteen, and at present teaching in the district schools of this Island; and every school teacher, and every candidate for the office of school teacher, whether Acadian or otherwise, who shall hereafter pass an examination of the Board of education, and receive a certificate of qualification, and who shall hereafter be licensed in accordance with the provisions of this Act, and who shall comply in all respects with the terms and directions of the same, shall be entitled to the following yearly salary, namely: if a teacher of the first class, at the rate of fifty-five pounds for teaching for one year; and if a teacher of the second or highest class, at the rate of sixty pounds for teaching for one year, the same to be paid by quarterly payments, in the way and manner hereinafter by the thirty-sixth section of this Act provided.

Salaries of teachers passing an examination since passing of 23d Vic. c. 14.

XXX. Provided always, that if any district teacher of the second or highest class, or any teacher of the highest class in Charlottetown, or Georgetown, shall, in addition to the necessary qualifications as hereinbefore set forth, be qualified to teach the rudiments of Latin and Greek, and shall hold a certificate from the Board of education of such qualification, it shall be lawful for every such teacher to charge and receive from the parent or guardian of every child taught or instructed by him in the said Latin and Greek languages, with the higher branches of education as pointed out by the twenty-sixth section of this Act, a sum not exceeding ten shillings *per quarter*, or two pounds *per annum*, as may be agreed between them, in addition to the sum to which he is entitled under this Act, as hereinbefore set forth; and in default of payment of any such quarterly or annual charge, it shall be lawful for the said teacher to sue for and recover the same from the parent or guardian of any child so taught and instructed in such languages, in any small debt Court for the County wherein his school shall be situate, in manner as small debts are recovered; provided that no parent or guardian shall be liable to pay any such extra charge as aforesaid,

Teachers of the 2d class entitled to receive from parent or guardian of child taught Latin or Greek additional allowance.

Teacher may sue parent, &c. for such additional allowance in small debt Court.

unless his or her child shall have been taught in such branches with his or her permission or sanction.

Salaries of Acadian teachers.

Acadian teachers to produce certificate of clergyman, &c.

Also, certificate of school visitor.

Average number of scholars in daily attendance to be 18.

XXXI. Every Acadian teacher in charge of a school at the passing of this Act, and authorized by law to teach the same, but who shall not have passed an examination before the Board of education since the passing of the said recited Act of the twenty-third Victoria, chapter fourteen, and who shall decline or refuse to be examined by the said Board, or having submitted to an examination thereby, shall not be deemed qualified for either a first or second class teacher, in manner required by this Act respecting teachers of those classes, shall receive from the treasury the sum of thirty-five pounds *per annum*, for teaching, and no more; such sum to be paid quarterly, by warrant, under the hand of the Lieutenant Governor, by and with the advice of her Majesty's Executive Council for the said Island; provided always, that every such teacher, before he shall be entitled to receive any of such quarterly payments, shall produce a certificate signed by the Priest or clergyman of the district or parish wherein such school shall be taught, and of whose congregation the said teacher shall be a member, that such teacher hath been by him duly examined, and found capable of teaching such school efficiently in the French language, and also in reading and writing in the English language, and in arithmetic, and shall also produce the certificate as to his moral character, as required in other cases by this Act; and also of his having taught thirty scholars for three months, in a suitable building; and shall also produce a certificate of approval from the school visitor, setting forth that such teacher has instructed at least one English class for the period of three months immediately preceding the granting of such certificate.

XXXII. The average number of scholars for daily attendance at district schools shall be eighteen, and in all cases where the average daily attendance of scholars shall hereafter be found to be less than eighteen, the salary by this Act allowed to the said master shall be reduced by the reduction of such amount as shall bear the same proportion to the number of scholars deficient or wanting eighteen, as the said teacher's salary bears to the said average number of eighteen scholars; provided always, that in the event of the average number of scholars attending any district or Acadian school in any year after the passing of this Act, falling below the average number of eighteen scholars, then, and in every such case, the trustees of such district or Acadian school shall be liable for, and shall make good the deficiency which shall thereby be occasioned in the amount of the government allowance to such teacher; and it shall be the duty of all trustees of dis-

trict and Acadian schools in this Island, from and after the passing of this Act, in all cases when entering into an engagement or agreement with any teacher, to insert, or cause to be inserted, in each and every such agreement, a clause binding the parents of the children attending such school, and the trustees, on their behalf, to pay and make good any deficiency which may be occasioned in the government allowance of such teacher, by the average attendance of scholars at such district or Acadian school falling below the number of eighteen, as fixed and established by this Act.

Parents of children attending the school to make good deficiency occasioned by non-attendance of average number of such children.

XXXIII. All parents of children within the bounds of such district, or belonging to any such Acadian school, shall be liable to contribute towards such deficiency in proportion to the number of children which such parents may have respectively; and in default of such contribution, after the same shall be duly demanded, the said amount so to be deducted from the said salary shall be raised by an assessment to be levied by the trustees on the parents or guardians of all children in the said school district, or belonging to such Acadian school: such assessment to be apportioned, levied and raised by said trustees in such manner and under and subject to such directions, rules, regulations and conditions as are prescribed for levying and recovering assessment by this Act.

Mode of ascertaining proportion of deficiency to be paid by parents, and manner of assessing for same

XXXIV. Forty scholars shall be deemed the requisite total number for each Acadian school in operation at the time of the passing of this Act, not being a district school, and in case the average daily attendance of scholars during the three month immediately preceding the period of the teacher of any such Acadian school claiming his allowance, shall not amount to eighteen, there shall be deducted from his salary a sum for each scholar deficient or wanting that number, bearing the same relative proportion to the number so deficient as the said allowance of thirty-five pounds bears to the said average daily number of eighteen scholars.

Forty scholars required for Acadian school; if average daily attendance falls short of 18, &c. a proportion of salary to be deducted from teacher.

XXXV. Every schoolmaster or teacher who shall hereafter be engaged as a district teacher in this Island shall be obliged, and he is hereby required, within twenty days after his entering into such engagement, to transmit to the Secretary of the Board of education a notice thereof in writing, in the form in the schedule to this Act annexed, marked (A,) set forth, stating the date at which he shall have entered into such engagement, and the day on which the school under his charge shall have been opened; and such engagement, as aforesaid, shall in no case be entered into for a longer or shorter period than twelve months from the commencement thereof; and every such agreement or engagement shall be duly made and entered into in writing between the said master or teacher and the trustees of

Teacher to transmit to Secretary of Board of education a notice of his engagement within 20 days after entering into same.

the district, to be appointed as by this Act directed, and shall or may be in the form or to the effect prescribed in the schedule to this Act annexed, marked (C).

On teacher depositing with Secretary of Board of education his agreement with trustees, &c., the secretary to certify class to which teacher belongs and amount of salary to which he is entitled, &c.

XXXVI. Each and every teacher, on depositing, or there being deposited on his behalf, with the Secretary of the Board of education, one part of the original agreement made by him, or on his behalf, with the trustees or inhabitants of any school district, or a true copy thereof, attested on oath, with a certificate in the form prescribed in the schedule to this Act annexed, marked (B), endorsed thereon, or thereto annexed, under the hands of a majority of the trustees of his school, in the manner prescribed by this Act, certifying that the provisions of this Act, in all respects, have been duly complied with, and also certifying to the good conduct, attention and sobriety of such master during the time he shall have kept his school, pursuant to such agreement, which conduct shall also be thereon certified by one or more Justice or Justices of the Peace, residing near such school, the said Secretary, by and with the concurrence of one other member of the said Board of education, shall certify the class to which such teacher shall belong, and the amount to which by law, and as shall satisfactorily appear by such certificate, the said teacher shall be entitled; and on the production of such certificate last mentioned, such teacher shall be entitled to receive from the treasury of this Island such amount as he, or she, according to his or her class and qualifications shall be by this Act entitled to; the same to be paid, by quarterly payments, on production of the certificates and other requisites aforesaid, by warrant, under the hand and seal of the Lieutenant Governor for the time being, by and with the advice and consent of Her Majesty's Executive Council.

School allowance may be withheld until prescribed regulations &c. are observed and adopted.

XXXVII. All schools claiming allowance to teachers therein under this Act, wherein the books, regulations and system of education prescribed, or to be prescribed, by the school visitor and Board of education shall not be observed and adopted, shall, if the said Board shall think fit, and make an order to that effect, be refused or deprived of such allowance, until such time as such books, regulations and system of education shall be observed and adopted.

Exempts teachers from statute labor, &c.

XXXVIII. All teachers, while conforming to the provisions of this Act, shall be exempt from statute labor and militia duty.

Teachers under 21 years of age where allowed.

XXXIX. Any teacher who shall be under the age of twenty-one years, shall not be permitted to enter into an engagement with the trustees of the school district in which he may have been brought up, without first obtaining the consent of the Board of education thereto.

XL. No teacher, while receiving pay under this Act, shall be allowed to embark in any mercantile pursuit, or follow the occupation of a tavernkeeper.

Teacher not to embark in mercantile pursuits, &c.

XLI. Where any child shall not reside within any school district, or shall reside within any school district, not in operation, such child shall be entitled to attend at the school in the nearest school district, the teacher whereof shall be receiving pay under this Act; and such teacher shall be bound to receive and instruct every such child, unless the number of children already in attendance at his school shall exceed fifty.

Child not residing within any school district, &c., to be taught in the school of the nearest district

XLII. The trustees of any school constituted or regulated under this Act shall have and be vested with full power and authority to expel any scholar for gross misconduct or misbehaviour.

Expulsion of scholars when authorized.

XLIII. If the trustees or inhabitants in any school district should prefer engaging a female teacher, qualified under this Act, they may enter into an agreement for that purpose with any such female teacher, who, whilst so engaged in teaching, shall be entitled to receive, if such female teacher shall not have passed an examination before the Board of education since the second day of May, one thousand eight hundred and sixty, the sum of thirty-five pounds *per annum*; and if she shall have passed an examination since the said second day of May, one thousand eight hundred and sixty, the sum of thirty-eight pounds ten shillings *per annum*, payable quarterly in the same manner, and on producing the same certificates, as in the case of male teachers; and such female teacher, and the school wherein she shall be, shall be subject to all the regulations and provisions herein contained respecting other teachers and schools.

Trustees or inhabitants of school district may engage a female teacher.

XLIV. All children over five years of age residing in any school district in this Island, shall be entitled to attend the school therein, the teacher whereof shall receive pay under this Act, and the said teacher shall be bound to receive and instruct all such children.

All children over five years of age entitled to attend district schools.

XLV. In all cases, the vacations of each school constituted or regulated under this Act, excepting always the schools in Charlottetown and Georgetown, shall be two in number in each year; that is to say, a spring vacation extending from the fifteenth day of May to the first day of June, and an autumnal vacation of two weeks, to take place in the month of October, and which shall be fixed by the respective trustees of the several school districts; and no deduction shall be made from the salary of the teacher, nor any time added to the period of his service on account of such vacations being allowed; and every alternate Saturday shall be allowed as a holiday to the teacher in each district school.

Number of vacations in each year.

No deduction to be made from teacher's salary on account of such vacations.

Inhabitants of school district to appoint five trustees.

XLVI. The inhabitants of any school district within this Island, who shall have provided a schoolhouse therein, in conformity, nevertheless, with all the provisions of this Act, shall, and they are hereby required to nominate and appoint five trustees, such nomination and appointment to take place at a meeting of the inhabitants of such district, called by a written or printed notice, signed by at least three resident householders within said school district, and posted in at least three of the most public places within the same, seven days prior to such meeting, which notice may be in the form of the schedule to this Act annexed, marked (D); and a majority of the resident householders present at such meeting shall be competent to appoint such trustees; and it shall be the duty of such trustees, three of whom shall be a quorum, to examine the school of said district quarterly in each year; and at all times, in conjunction with the visitor of schools, to inquire into the order, and direct the discipline and regulation of such school; and also to give any licensed teacher who has had the management thereof, the necessary certificates required by this Act; and it shall be the further duty of such trustees so appointed as aforesaid, immediately thereafter, to forward a notice of their appointment to the Board of education; provided always, that where the appointment of the trustees of the school in any school district shall have taken place and been made under or by virtue of the laws heretofore in force, relating to education, and such trustees shall be in office at the passing hereof, they shall be held to be the trustees of such school under and for the purposes of this Act.

Duties of trustees, &c.

Appointments of trustees in office at passing hereof, confirmed.

Proof of calling a meeting for the appointment of trustees may be made by an affidavit of the posting of notices.

XLVII. In order to obviate the necessity and consequent expense of a more formal proof of the calling of any meeting for the appointment of trustees under this Act, or any former Act relating to education, which shall have been repealed by this Act, an affidavit of the posting of the notices for the calling of such meeting shall, in all cases of the appointment of trustees which shall hereafter take place, be made by the person by whom such notices shall be posted, or other person or persons who can prove the fact of the several notices having been duly posted, before any Justice of the Peace for the County wherein the school district shall be situate, which affidavit shall be in the form or to the effect prescribed in schedule (E) to this Act annexed, and shall be affixed to the register or books of record kept by the trustees of the school therein; and a copy of such affidavit, certified by any two of the trustees of such school for the time being, shall be *prima facie* evidence in any Court of law or equity, or before any Court or tribunal whatsoever, of due notice of such meeting having been given.

XLVIII. In each school district constituted by virtue of

the laws heretofore in force, or hereafter to be constituted by virtue of this Act, a majority of the trustees thereof shall have power to assess all the inhabitants, householders resident therein, who shall have a child or children within the ages of five and sixteen years, and who shall have been so resident for six months previous to the making of the assessment, and no other person or persons whomsoever, in a sum to provide the necessary books directed to be found by the school visitor, and for the necessary repairs of the schoolhouse, together with the fuel and furniture required therein; and such trustees as aforesaid, or the majority thereof, are hereby empowered to apportion the said assessment between such resident householders according to the number of children within the ages aforesaid, respectively belonging to them, the assessment upon each parent to be increased in proportion to the number of his or her children within such ages; and such assessment shall be recoverable with costs as hereinafter in the fifty-sixth section of this Act directed; and, when recovered, shall be applied for the purposes for which the same shall be levied.

Trustees may assess all householders who have a child or children within the ages of 5 and 16 years.

XLIX. The trustees of any district school established or regulated under this Act, or a majority of such trustees, shall have power to order books or maps to be provided for the use of such schools; provided that before such order be made, a certificate be obtained from the Board of education, or the Secretary thereof, as to the fact of such school being in operation; and a majority of such trustees shall thereupon have power to assess the resident householders within the said district for the cost of such books and maps, (such householders being the same parties as are liable to assessment in other cases under this Act), and which assessment shall be recoverable, with costs, in the manner pointed out by the fifty-sixth section of this Act.

School books or maps to be ordered by Justices.

L. No parent or guardian, or other person, shall be liable or required to pay any sum or amount *per head*, or otherwise, for or on account of any child attending any school, the teacher whereof shall receive pay under the authority of this Act, except in such cases as are hereinbefore mentioned; provided always, that nothing herein shall extend, or be construed to extend, to prevent the inhabitants, or any one or more of the inhabitants of any school district in this Island, from voluntarily subscribing any sum or sums of money whatsoever towards the pay or support of the teacher of the school therein, in addition to the allowance to which such teacher may be entitled under this Act; and in all cases where any such voluntary subscription may be entered into, and signed by any such inhabitants as aforesaid, either as an inducement to any efficient master to take charge of a school, or for any other reason whatsoever, the master or teacher with whom the

No sum to be paid for any child attending school, except as hereinbefore mentioned.

Voluntary subscriptions.

Masters, &c. may enforce payment of voluntary subscriptions.

same shall have been entered into, or the trustees of the said school, if the same shall have been entered into with them, shall be entitled to demand and receive from the person or persons respectively who shall have signed the same, the amount of their respective subscriptions, in accordance with the terms thereof; and in default of payment, such teacher or trustees respectively shall be entitled to sue for and recover the same, in manner by law provided for the recovery of small debts.

Two trustees to go out in rotation annually and two others to be elected in their stead.

LI. Two of the trustees of every school, appointed by virtue of the laws heretofore in force, or hereafter to be appointed by virtue of this Act, shall, in rotation, go out of office in the month of July in each year, commencing with the two members first nominated and appointed; and the inhabitants, resident householders in such district wherein is the school to which they shall have been appointed trustees, at a meeting to be held on any day in the month of July yearly, and to be called by the trustees of said school, after notice thereof given in the manner provided by the forty-sixth section of this Act, shall elect two new trustees in their stead, having the like power and authority; and until such election shall be had the two retiring trustees shall remain in office; provided nevertheless, that if the said inhabitants think fit they may reappoint at the bottom of the list such trustees going out by rotation; and immediately after such election or reelection, and whether new appointments be made or not, the trustees of such school shall notify the proceedings to the Secretary of the Board of education.

Vacancies in Board of trustees by death, absence, or refusal to act, how filled up.

LII. In the event of any vacancy or vacancies occurring from time to time in any Board of trustees for any school district, appointed or elected by virtue of the laws heretofore in force, or hereafter to be appointed or elected under this Act, by reason of the death, absence, or refusal to act, of any trustee or trustees, after his or their appointment or election, the inhabitants, householders of said district, are hereby empowered to proceed to call a meeting in the same manner as provided for the first or annual election of trustees, and to choose or elect one or more person or persons to supply such vacancy or vacancies; and the trustee or trustees so chosen or elected during the currency of any year, shall have the same power in all respects, as if he or they had been elected at the commencement of the year, or at the last previous general election of trustees.

In cases of doubt, &c. Board may order a new election.

LIII. In the event of any disputes or doubts arising or existing as to the legal election or resignation of any district school trustee or trustees, or the right of any person or persons to assume the office or exercise the duties of trustee or

trustees of such school, the Board of education are hereby authorized and empowered to inquire into and determine the same, and, if necessary, to order a new election of the whole or any less number of the said trustees; and for the better ascertaining the truth in such case, to require the personal attendance before the said Board, and to examine on oath any witness or witnesses, whose evidence may be deemed necessary on such enquiry; and any witness who shall refuse to attend so to be examined, after his reasonable expenses for doing so shall be tendered to him, shall be liable to pay to the party complaining a fine of not more than five pounds, nor less than one pound; the same to be recovered, with costs of suit, in such manner as small debts are now recovered.

Board to examine witnesses on oath, &c.

LIV. In case the said Board shall order a new election of trustees, a day, hour and place shall be named in such order for that purpose, and a copy thereof shall be posted on the schoolhouse of the district at least six days before the day so named; and the inhabitants who shall thereupon assemble shall then and there elect the necessary number of trustees, who, on being confirmed by the said Board of education, shall be deemed to be in office until the first day of July next after the date of such election, or until some new election, duly authorized, shall take place.

Time and manner of holding a new election of trustees.

LV. In all cases where it may be necessary to prove the appointment of trustees appointed by virtue of the laws heretofore in force, or hereafter to be appointed by virtue of this Act, in any Court of law or equity, or before any Court or tribunal whatsoever, a certificate, stating the fact of such appointment, signed by any three resident householders present at such meeting respectively, shall be, and shall be held and taken and deemed to be good and sufficient legal evidence of such appointment, in all matters and questions touching the school or the school district respecting which such appointment shall have been made, or in any manner in which such appointment may come in question.

Proof of appointment of trustees may be made by a certificate signed by three householders.

LVI. Every Board of trustees of school districts, appointed under or by virtue of the laws heretofore in force, or to be appointed by virtue of this Act, shall keep a book or record, in which their proceedings shall be entered, and the minutes of each appointment hereafter to be made of trustees in any district, after their election as aforesaid; and their names shall be entered and signed by the chairman of the meeting of inhabitants, at which such trustees shall have been elected, in such book or record, which shall afterwards be so kept by the trustees as aforesaid; and when so signed, such appointment shall be held and be deemed to be good and valid; and minutes of future meetings and proceedings, elections and

Board of trustees to keep a record of their proceedings.

Particulars of
all assessments
to be entered in
minute book.

reelections, shall be entered therein, and signed by any three of the trustees for the time being; and the particulars of all assessments made by any such trustees shall be also duly entered, and signed by any three of them; and if any such assessment shall not be paid by any party liable to pay the same, within ten days after a demand thereof made upon or at the residence of the debtor, and after an order thereof made in writing, under the hands of a majority of said trustees, and produced to the debtor, or after the said order, or a copy thereof, shall have been left at his dwelling house, that then, and in every such case, the said trustees, or any one or more of them, or such other person as the majority of them may appoint, and in the name of any one or more of the said trustees, may sue and prosecute the debtor before any Court appointed for the recovery of small debts, or Justice of the Peace, by summons or otherwise, under such regulations as are by law prescribed for the recovery of small debts; and it shall be lawful, at the hearing of such cases, for the defendant, if he shall see fit, to plead the inequality of the rate, provided he give notice of his intention so to do, in writing, to the trustee or trustees, or other person in whose name the summons shall have been taken out, within twenty-four hours after the serving of the same; and if he shall so plead, then it shall be lawful for the said Court for the recovery of small debts, or Justice of the Peace before whom the summons shall be returnable, to hear such evidence as may be adduced by either party, and to vary the amount of rate, and make an order for such amount of payment as justice may require; provided nevertheless, that if the defendant making such plea shall have at any time theretofore acquiesced in the justice or equality of such rate, by having on occasion of any former assessment paid his proportion or quota thereto, or any part thereof, then such Court or Justice of the Peace shall not permit the same to be heard, or any evidence connected therewith to be adduced, but order the reasonable costs incurred by the plaintiff or plaintiffs to be paid by the defendant.

Book to be kept
by trustees to
be *prima facie*
evidence.

LVII. The book or record to be kept by the trustees of the several school districts, constituted under the laws heretofore in force, or this Act, and signed by the persons, and in the manner mentioned, and set forth in the last preceding section, shall be good and sufficient *prima facie* evidence of the truth of all statements, minutes, matters and things therein contained, and set forth in any Court of law or equity, or before any Court or tribunal whatsoever, whether such statements, minutes, matters or things shall relate to meetings of the inhabitants, the appointment or election of trustees, or reelections thereof, assessments upon the inhabitants, or other proceedings whatsoever, of such trustees, and of the regularity and correctness of all acts, matters and things relating

to or connected with such proceedings so entered and set forth in such book or record.

LVIII. Where the erection of a new school district shall be sanctioned by order of the Administrator of the Government in Council, under this Act, or in any school district already established, if the majority of inhabitants, resident householders therein respectively, shall decide upon erecting a new schoolhouse within the same, or enlarging or completing any schoolhouse already erected, or rebuilding or repairing the same when decayed, it shall be lawful for such majority of resident householders, to meet together and appoint a committee of five persons, if in a newly erected district, or if in a previously established district, to make an order to give directions to the trustees of such district for the time being, to assess the several resident householders within the same respectively, for the erection of such schoolhouse, or for enlarging, completing, rebuilding or repairing the same as aforesaid, as the case may be, and to superintend the same; and which schoolhouse, as to size, shall be in conformity with the provisions of this Act, and a plan and specification of such schoolhouse, so to be erected, or of the contemplated enlargement, manner of completing, rebuilding or repairing the same, having been submitted to and approved by a majority of such resident householders, the said committee or trustees, as the case may be, shall thereupon have full power to make such assessment, as aforesaid, for any of the purposes above contemplated.

Trustees may assess householders for the erection of a new schoolhouse, or the repairing, enlarging, &c., one already erected.

Size and plan of such schoolhouse to be first submitted, &c.

LIX. In the event of any one of such resident householders, in any such district as aforesaid refusing to pay the amount for which he shall be so assessed, within fifteen days after the same shall be demanded of him, or her, by or on behalf of such committee or trustees respectively, as aforesaid, or after a memorandum of the amount of such assessment, signed by said committee or trustees, as the case may be, or a copy thereof, shall be left at the dwelling house of such inhabitant, it shall be lawful for the said committee or trustees, or any one or more of them respectively, in the name of the whole, to sue for and prosecute the debtor before any Court of Commissioners for the recovery of small debts, or Justice of the Peace, by summons or otherwise, under such regulations as are by law prescribed for the recovery of small debts; and it shall be lawful at the hearing of such case, for the defendant, if he or she shall see fit, to plead the inequality of the rate, provided he or she give notice of his or her intention so to do, in writing, to such committee or trustees as aforesaid, as the case may be, or to one or more of them, in whose name or names the summons shall have been taken out, within forty-eight hours after the serving of the same; and if he or she shall so plead, then

Committee or trustees empowered to levy and sue for assessment.

it shall be lawful for the said Court before which the summons shall be returnable, to hear such evidence as may be adduced by either party, and to vary the amount of the rate, and make an order for such amount of payment as justice may require.

Mode of prosecuting complaints against teachers.

Complaints to be lodged in writing with Board of Education.

Board may supersede teacher, &c.

LX. In the event of any dispute between any of the trustees, or inhabitants of any district and the teacher, as to his conduct as teacher, the trustees or inhabitants intending to prosecute such complaint, with the view of removing him from the school before the expiration of his agreement, shall be obliged to lodge, in writing, with the Board of education, a statement of such complaint, and at the same time to send a copy thereof to the teacher; and the Board of education may inquire into such complaint in such way as to them may seem most fit, and the evidence as well on the part of the trustees or inhabitants in support of the charge or complaint, as on the part of the teacher in answer thereto, may be taken by affidavit or written depositions before any Justice or Justices of the Peace for the County, to be nominated by the said Board for that purpose, not interested in the issue of the dispute, and transmitted to the said Board for their consideration and final decision thereon; provided always, that the said Board may, if they think fit, require the parties and their witnesses to appear personally before them in or touching the matter of any such investigation; and on such complaint being established, the said Board of education may, in their discretion, supersede such teacher, and authorize the trustees of the district to engage another teacher in his place, although the term of the agreement with the teacher so suspended may not have expired; but such last mentioned teacher shall, nevertheless, be entitled to receive the proportion of his salary up to the time of his dismissal.

Empowers clergymen, &c. to visit public schools.

LXI. All clergymen, judges, magistrates and members of the Legislature, shall have power to visit any public school under this Act, and to inquire into its management, or any other object connected with its prosperity; and may note down in a visitors' book, which shall be kept by every teacher for that purpose, any omission observed in any department, or other remarks relating to the school.

Teacher to keep a journal.

Particulars of such journal.

LXII. Every licensed teacher shall hereafter keep a regular journal of his school, which shall always be kept in the schoolhouse, containing the names and ages, with notes of the progress and attendance of the pupils; and which journal shall at all times be open to the inspection of the school visitor, and trustees of said school for the time being, and other persons authorized to visit the same, as in the previous section of this Act mentioned, and also of any member

of the Board of education who may choose to visit any such school; and such journal shall, at the termination of the teachers' engagement, be by him or her forwarded to the Secretary of the Board of education.

LXIII. Where any schoolhouse within the meaning of this Act has been or shall hereafter be erected on any site or piece of ground, with the consent of the owner, tenant or occupant of such land, and such site and schoolhouse have also been recognized by the Board of education as the legal site, and schoolhouse for the district wherein the same are situate, then, and in such case, it shall be illegal for the original owner, tenant or occupant of such land, or any person or persons under or in trust for such owner, tenant or occupant, by deed or otherwise, whether registered or unregistered, in any manner to interfere with such site, or schoolhouse thereon erected, or to prevent the free and peaceable possession and use thereof, and access thereto and thereover, by or to the trustees, masters or children, or the inhabitants of the district, or the Board of education, or others for the purposes of education, unless such interference shall be expressly sanctioned by the terms of any deed, lease, or agreement, given by the owner, tenant, or occupant of, or person entitled to the land on which the house is or shall be erected; and any conveyance or deed of the site heretofore made, or hereafter to be made, shall be ineffectual to pass any estate therein, so as to enable the grantee or releasee, or person to whom the same is conveyed, to interfere with such site or any schoolhouse thereon, or any of the aforesaid parties, in the free and peaceable use and occupation and possession thereof as aforesaid.

Where a schoolhouse has been built and recognized by Board of education, it shall be illegal for the original owner of the land to interfere with the same.

LXIV. From and after the passing of this Act, the number of district schools for Charlottetown and the common and royalty shall not exceed five; and it shall be the duty of the resident householders within such district respectively, having children under the age of sixteen years, to meet together, from time to time, as the necessity shall arise, for the purpose of electing trustees, in the same manner in all respects as is provided by this Act for the election and reelection of trustees for ordinary school districts.

Number of schools for Charlottetown, and the common and the royalty thereof

LXV. The Board of education shall have power, from time to time, when they shall deem the same requisite, to divide the City of Charlottetown and the royalty thereof into school districts, the whole not to exceed the number of five, now in existence, and operation as provided for by this Act, and to alter such division from time to time, and rearrange such districts as occasion may require; and such division or alterations shall be notified by advertisement in the *Royal Gazette* newspaper, from time to time, immediately after the same shall be

Board of education empowered to divide city of Charlottetown and the royalty thereof into school districts, &c.

Present districts confirmed

made; provided always, nevertheless, that until any new division be made and announced, the districts now constituted and in operation shall continue, and be in force.

Two teachers of highest class allowed for Charlottetown.

LXVI. There shall be allowed for Charlottetown and the common and royalty thereof, under this Act, not more than two masters or teachers of the highest or second class, who shall severally receive the sum of eighty-five pounds; and which said masters shall be assigned by the Board of education to such districts (with the consent of the trustees thereof) within the said town, as they may deem advisable, having a regard to the ages and state of proficiency of the children in the several districts, and giving preferable claim to the districts in which shall reside those most advanced or proficient; and for each of the other districts in the said town, common and royalty there shall be employed a master or teacher of the first or lowest class, who shall severally receive seventy pounds *per annum*; provided always, that if the inhabitants of any one of said districts, instead of sending their children to the school in their own district, if such shall be in operation, shall prefer sending them to the school in any other district in the said town, common or royalty, they shall be at liberty so to do, unless the children in attendance at such last mentioned school shall exceed sixty in number; in which case, upon a representation made by the trustees of such last mentioned school, or other persons interested therein, or who shall desire to send their children thereto, of the necessity of having an additional master or teacher as an assistant therein, it shall be competent for the Board of education to inquire into the matter, and if they see fit so to do, to appoint an additional master or teacher of either class as an assistant teacher in such school, which said master, so appointed, shall receive sixty pounds a year; provided further, that the said Board shall have no power to appoint such assistant teacher, if the number of masters and assistants in Charlottetown and royalty then actually engaged and receiving government pay, exclusive of the masters of the Normal school and the teachers of the female school, shall amount to eight; provided further, that no teacher in Charlottetown, under this Act, shall be entitled to receive a salary, unless he or she shall have taught at least thirty scholars, and such must be specified in the respective certificates.

Proviso.

Further proviso

No teacher in Charlottetown entitled to salary, unless 30 scholars are taught.

One shilling and six pence to be paid quarterly by scholars in schools of Charlottetown, &c., for fuel, &c.

LXVII. The scholars receiving instruction in Charlottetown and the common and royalty thereof, at any of the schools therein receiving support from the government, shall pay at the time of their first admission into said schools, and thereafter quarterly in advance, each the sum of one shilling and sixpence, to be collected by the teacher of each school, and paid over, if a district school, to the trustees thereof; and if a female school, to the Secretary of the Board of education;

and to be applied by such trustees or Secretary of the said Board respectively to the purchasing of fuel and the payment of rent, and the cost of repairs of said schoolhouses, and other necessary purposes; and if such trustees, or the Board of education respectively, shall find that the said quarterly payment is not sufficient in amount for the purchase of fuel and other purposes as aforesaid, then the said trustees or Board of education respectively may order and require a further payment to be made by each scholar, not exceeding, however, in any case, the sum of one shilling and sixpence quarterly, in addition to the first mentioned quarterly payment of one shilling and sixpence; and if the said sums, or either of them, be not paid, the scholars in default shall be debarred from further instruction until the same is paid; and the same shall be recoverable by the teacher in the name of any one or more of the trustees, or of the Secretary of the Board of education, respectively, before the Court of commissioners for the recovery of small debts in Charlottetown, from the parents or guardians of the children so in default.

LXVIII. The Board of education shall have power to include the farms of township lands fronting on the back royalty road of Charlottetown royalty in the same district or districts with the royalty district schools, or one or other of them, according to their situations; and the inhabitants of such farms, in accordance with the terms of any such order by the Board of education, shall be entitled to send their children to the school named in such order, and be liable to pay the same assessments and rates or charges for fuel, furniture and books for such school, or for keeping up and repairing the same, as the inhabitants of the royalty are liable.

Board of education empowered to include township lands fronting on back royalty road of Charlottetown in same district as districts with royalty schools.

LXIX. There shall be allowed for Charlottetown, under this Act, three schools with female teachers, who shall receive forty-five pounds a year each; and when and so soon as there shall be more than fifty scholars in attendance at each of the said female schools, and it shall appear to the said Board that there is a sufficient number of scholars above said number, to render it desirable or requisite to have further assistance, then the said Board may establish one or two more schools, and appoint one or two more female teachers thereto, who shall receive the like sum of forty-five pounds a year each, or shall appoint one or more female teachers as assistant teachers in the first mentioned schools, who shall receive the sum of forty-five pounds a year each, such sums respectively to be paid quarterly by warrant, under the hand and seal of the Lieutenant Governor, on the Treasurer of this Island, on producing a certificate, signed by a majority of the Board of education, certifying that the same is due.

Three female schools allowed for Charlottetown.

Additional female schools may be established by Board where necessary.

Preamble to section.

Authorizes Board of education to establish school in Charlottetown for orphans and destitute children, &c,

Teacher of orphan school.

Orphan children to have preference in admission to said school.

A sum sufficient to defray the rent &c., of a schoolhouse, &c., to be annually paid to the Secretary of the Board of education.

School for orphans in other respects to be subject to regulations of education Act.

Number of scholars, &c., to be regulated by the Board of education.

LXX. Whereas among the population of Charlottetown there are certain orphans, as well as certain children of destitute parents, who are subject to be excluded from the benefits of free education by reason of their total inability to pay the fees imposed by this Act, and it is expedient to have established an additional school in Charlottetown aforesaid, for the instruction of such orphans and children free from any charge to them whatsoever: Be it therefore enacted, that it shall be lawful for the Board of education to establish at some convenient place in Charlottetown aforesaid, an additional school for the instruction of such children of either sex as aforesaid, and from time to time to appoint a competent teacher of either sex for such school, who shall be entitled to receive therefor a salary of not more than fifty pounds *per annum*, payable out of the public treasury of this Island, in such manner and under and subject to such regulations as shall be prescribed by the Board of education.

LXXI. That the teacher of such school shall first be examined by the said Board, and if found competent, shall receive a certificate to teach the primary branches of education, whether he or she shall or shall not be able to qualify as a first class teacher in manner required by this Act; and it shall be lawful for the said Board to cancel and revoke such certificate, for such reasons and in such manner as mentioned in the eighth section of this Act.

LXXII. That orphan children shall have preference of admission to said school, and no child shall be admitted thereto, if under the age of four years, nor continued therein if above the age of twelve years; nor shall any child be admitted, unless recommended by a certificate in writing, to be signed by a clergyman, resident in the said town, and also by a member of the Board of education.

LXXIII. A sum of money sufficient to defray the expense of fitting up a schoolhouse or room for such orphan school; and the rent thereof, with books and fuel for the same, shall be paid annually out of the public treasury of this Island into the hands of the Secretary of the Board of education for such purposes, who shall account for the same to the Board.

LXXIV. The said school, and the teacher thereof, shall in all other respects, as far as circumstances shall admit, be conformable and subject to the several enactments, rules and regulations prescribed for schools and teachers in and by this Act.

LXXV. The number of scholars to be limited for the said school, either as regards sex or the aggregate of both sexes, as well as the superiority of claims for admission thereto shall from time to time, as occasion may require, be ordered and regulated by the said board of education.

LXXVI. There shall be allowed in and for Georgetown, under this Act, one master or teacher, and one female teacher; and there shall be paid to such master or teacher, (if of the second or highest class, the sum of eighty pounds *per annum*, and if of the first or lowest class, the sum of seventy pounds *per annum*, as salary to such master or teacher); and there shall be paid to such female teacher the sum of thirty-five pounds *per annum*, such respective salaries to be paid quarterly, and in manner as hereinafter prescribed; provided always, that every male teacher heretofore licensed by the Board of education, and at present teaching in the district schools in Charlottetown and the common and royalty thereof, and in the town of Georgetown; and also all licensed female teachers in the town and country districts of this Island, who shall have passed an examination before the Board of education since the passing of the said recited Act of the twenty-third Victoria, chapter fourteen, and every teacher, whether male or female, who shall hereafter pass an examination before the said Board, and receive a certificate of qualification or license to teach, and shall be appointed to teach in any of such schools in either of the said towns respectively, if males, and if females, in any town or county district in this Island, shall be entitled to receive a further allowance of one tenth of the amount payable by this Act as salaries to such teachers respectively, and in addition thereto; provided always, that every such teacher respectively, as aforesaid, who shall not have passed an examination before the said Board since the passing of the said recited Act, and who shall decline or refuse to submit to be reexamined by the said Board, as aforesaid; or having submitted to such reexamination, shall not be deemed entitled to a certificate of qualification, shall be subject to a reduction in his or her salary of one tenth of the amount payable by this Act, as aforesaid, to every such teacher respectively.

Teachers to be allowed for Georgetown.

Salaries of teachers under the Act 23d Vic. cap. 14.

Salaries of teachers who have not passed an examination since the passing of the Act 23d Vic. c. 14.

LXXVII. It shall be the duty of the senior of her Majesty's Justices of the Peace, resident for the time being in Georgetown, and he is hereby required, annually, during the continuance of this Act, on the first Tuesday in June, in each year, to convene a public meeting of the inhabitants, householders of Georgetown, its common and royalty, having children between five and sixteen years of age, to be holden at the Court house in said town; such meeting to be convened by such Justice giving, or causing to be given, at least eight days' notice thereof in writing, the same to be published by being posted in three or more public places in the said town and common, and three or more public places in the said royalty; and the said inhabitants, householders, or a majority present at such meeting, shall elect five fit and proper persons, being also such resident householders, as aforesaid, to be the trustees for the ensuing year of the schools heretofore established

Duty of the senior Justice of the Peace in Georgetown.

Trustees of schools, how chosen.

Powers of trustees.

Teachers' salaries to be paid quarterly.

Children of inhabitants of common and royalty may attend school in Georgetown.

Scholars in Georgetown to pay quarterly 2s. 6d. each.

Such payment being found insufficient, trustees may order further payment.

Mode of recovery thereof.

Two trustees of Georgetown schools to go out of office annually.

in Georgetown; and such trustees, so to be elected, shall have the control of said schools in Georgetown, and the selection of the teachers, and may make regulations respecting the location thereof; and the teachers shall be entitled to receive payment of their salaries quarterly, by warrant, under the hand and seal of the Lieutenant Governor, on the Treasurer of this Island, on producing a certificate that the same is due, signed by a majority of the trustees, and certified by the school visitor and the secretary of the Board of education, and that the teacher has been actually teaching upwards of thirty scholars during the period for which the sum specified in the certificate is payable.

LXXVIII. The children of the inhabitants of Georgetown common and royalty may attend the schools in Georgetown mentioned in the preceding section; but this privilege shall not interfere with the erection of district schools in Georgetown royalty, in the same manner as in other districts under this Act.

LXXIX. The scholars receiving instruction in Georgetown at the schools supported and regulated under the two last preceding sections of this Act, shall pay quarterly each the sum of two shillings and six pence, to be collected by the teachers and paid over to the trustees of the said schools, appointed as hereinbefore mentioned, and to be applied by them to the purchase of books and fuel, and to pay for rent and repairs of schoolhouses, and other necessary purposes connected with the schools; and if the said trustees shall find, that the said quarterly payment is not sufficient in amount for the purchase of books, and other purposes as aforesaid, then it shall be lawful for the said trustees to order and require a further payment to be made by each scholar, nor exceeding, however, in any case, the sum of two shillings and six pence quarterly, in addition to the first mentioned quarterly payment of two shillings and six pence; and if the said sums, or either of them, be not paid, the scholar in arrear may be debarred from further instruction until the same is paid; and the said payments shall also be recoverable by the teachers, in the name of the said trustees, or a majority of them, before the Court of Commissioners for the recovery of small debts which hold its sittings in or nearest to Georgetown, from the parents or guardians of the scholars.

LXXX. Two of the said trustees of the Georgetown school shall go out of office annually on the first Tuesday in June in rotation, in the manner provided in respect to district schools; that is to say, the two persons first nominated shall go out, and the inhabitants of the said town, and the common and royalty thereof, at their annual meeting as hereinbefore provided, shall elect two persons to supply their places, power

being, nevertheless, given to the said inhabitants to reelect such two retiring trustees, or either of them, if they shall see fit so to do, their names, or the name of such one of them as may be reelected being then placed at the bottom of the list; and in all cases of election or reelection of trustees, notice thereof shall be thereupon immediately forwarded by the trustees of said schools to the secretary of the Board of education.

Mode of elect-
ing others.

LXXXI. The introduction of the Bible to be read in all the public schools of this Island of every grade, receiving support from the public treasury, is hereby authorized; and the teachers are hereby required to open the school on each school day with the reading of the sacred scriptures, by those children whose parents or guardians desire it, without comment, explanation or remark thereupon by the teachers; but no children shall be required to attend during such reading as aforesaid, unless desired by their parents or guardians.

The bible au-
thorized to be
read in all pub-
lic schools, &c.

LXXXII. The normal school heretofore established in Charlottetown for the training of male and female teachers, shall be continued under this Act, and such school shall continue to be held in the building or schoolhouse now used for that purpose.

Normal school
continued.

LXXXIII. The mode in which such normal school shall be conducted, unless when otherwise provided for in this Act, shall be ordained by proper rules and regulations, from time to time to be made for that purpose by the Board of education, subject to the control, alteration, supervision and approval of the Government.

Board of edu-
cation to regu-
late mode of
conducting
normal school.

LXXXIV. There shall be two teachers of or in the said normal school, who shall be the first and second masters thereof; and the appointment of such teachers to said school shall be made by the Lieutenant Governor, by and with the advice of the Executive Council; and the relative powers and duties of such first and second masters therein, shall be prescribed by the Board of education; provided, that no person shall be appointed to the office of either first or second master in said school, who has not received a diploma or certificate of qualification from some British or Colonial training institution, established upon the principle of Stowe's normal or training system; and provided also, that the first or principal teacher now teaching in said school, if in that situation at the passing of this Act, shall be the head master of such school, under this Act, subject to the power of removal hereby given to the Lieutenant Governor in Council.

Two teachers
for the normal
school.

First teacher
declared to be
the head mas-
ter of the nor-
mal school.

LXXXV. The number of scholars in addition to teachers, or those desiring to be trained for such, who shall be entitled

Number of
scholars, &c.

to be regulated
by Board of
education, &c.

to attend at such normal school, under this Act, shall be regulated by order or the Board of education, subject to the consent of the Lieutenant Governor and Council; and the quarterly payments towards defraying the cost of fuel and books shall be the same for each pupil, as in the case of other Charlottetown schools, and recoverable in the same manner.

Duties, &c. of
teachers of
normal school.

LXXXVI. The teachers of the said normal school shall, by themselves, and the teachers being trained by them, teach the children in attendance there, the ordinary branches of education usually taught in district schools, and shall also train in the art of teaching such teachers and candidates as may attend, giving to the latter a thorough and competent knowledge of the best method of conducting a common district school, and especially teaching them the art of communicating the several branches of common school education in a manner best suited to the capacities, ages and conditions of the pupils who may thereafter be under their care.

One female
school to be
held in normal
school building
&c.

LXXXVII. The Board of education, if they think fit, may cause one of the Charlottetown female schools to be held in the aforesaid schoolhouse, in a room to be fitted up apart from the said school for male scholars to be held therein, and place the said female school and the teacher thereof under the supervision of the head master of the normal school, who shall train (if it be thought advisable by the Board) teachers and candidates to be teachers therein.

Candidates to
be teachers, en-
titled to attend
and receive in-
struction and
training free of
charge.

LXXXVIII. Every teacher, whether male or female, a *bona fide* candidate for the office of teacher, of whose qualification the Board of education are hereby constituted the judges, upon being examined by the Board of education, and producing a certificate thereof certifying to the proficiency of such candidate, and to his or her being qualified to become a student for the office of school teacher, shall be entitled to attend at the normal school and receive instruction and training in the art of teaching, without having to pay any fees or charges therefor.

Salaries of first
and second mas-
ters of normal
school.

LXXXIX. There shall be paid to the persons appointed to fill the offices of first and second masters of the normal school, the respective sums following, as salaries to such masters, that is to say, the sum of two hundred pounds *per annum* to the first or principal master, and the sum of one hundred pounds *per annum* to the second master thereof, to be paid to them quarterly from the date of their respective appointments to such offices, under the hand and seal of the Lieutenant Governor, drawn on the Treasurer of this Island in the usual manner, on each producing a certificate of the Board of education of his being entitled to receive the same.

To be paid
quarterly.

XC. The office of school visitor, created and established under and by virtue of the laws hereby repealed, shall be continued under this Act; and when and as often as a vacancy shall occur in such office of school visitor, it shall be lawful for the Lieutenant Governor in Council to nominate and appoint a fit and proper person to such office, who shall be the visitor of all the public schools in this Island during the continuance of this Act, and to displace any such person so appointed, and to appoint another person to fill up such vacancy; and such school visitor shall not be engaged in trade or business, whilst holding such situation under the superintendence of the Board of education; and his duty shall be to visit all such schools at least twice in every year, and assist the said Board of education to prescribe the course of education to be pursued in such schools, and the books, diaries, list of attendances, and other records necessary to be kept therein, and to order what books shall be used in the schools, what shall be the hours of attendance of the scholars, and commencement of terms, and other necessary details connected with the management of the schools; and such visitor shall have power, and he is hereby directed, whenever he shall see fit, to call meetings of the trustees connected with the respective schools, and to make a report in writing, of every visit, to the Board of education, stating therein the condition of every school, the method of teaching practised therein, the number of scholars, state and description of schoolhouses, and whether in such schools the provisions of this Act, and the orders made for their guidance by the said Board of education, have been complied with, and such other information as he may deem it necessary to give; and it shall be lawful for, and the duty of the Board of education, to furnish each branch of the Legislature, within fourteen days after the meeting thereof, with such parts of the said visitor's reports, including the statistics thereof, as they may deem necessary, together with, if they shall see fit, their own remarks thereon; and a copy of such extracts and remarks shall be annually published in the *Royal Gazette* newspaper of the Colony.

Office of school visitor continued.

Visitor not permitted to engage in trade, &c.

Visitor to report to Board in writing, after every visit.

Duty of Board of education with reference to such reports.

XCI. The visitor of schools for the time being shall be *ex officio* a member of the Board of education.

Visitor to be *ex officio* a member of Board.

XCII. The salary of such school visitor shall be two hundred pounds *per annum*, to be paid to him quarterly from the date of his first appointment, by warrant, under the hand and seal of the Lieutenant Governor, drawn on the Treasurer of this Island in the usual manner, on producing the certificate of a quorum of the Board of Education of his being entitled to receive the same.

Salary of school visitor.

XCIII. The Lieutenant Governor, with the advice of the Executive Council, is hereby empowered, from time to time,

Lt. Governor may dispense

with one of the visitor's annual inspections.

when it shall be found necessary, to dispense, either wholly or in part, with one of the two inspections or visitations of district schools in this Island required by this Act.

School visitor to enter his name and date of visits in book kept by trustees.

XCIV. The school visitor for the time being is hereby required, at each and every visitation made by him of the several schools heretofore by law constituted, or to be constituted and regulated under this Act, to enter his name and the date of his visitation in the said book or record kept by the trustees of such schools respectively.

Duty of visitor to visit and superintend normal school.

XCIV. It shall be the especial duty of the school visitor to visit frequently and superintend the normal school, and to direct, in conjunction with the other members of the Board of education, the management thereof.

All acts, &c., by Board of education, under the Acts hereby repealed, confirmed and made effectual.

XCVI. All acts, orders, deeds, transactions, matters and things whatsoever, made, done, had or executed by the Board of education, or by or under their direction, sanction, privity, cognizance, or authority, under or by virtue of any of the hereinbefore mentioned or recited Acts relating to education, which are hereby repealed, and all appointments of trustees and other persons whatsoever under or by virtue of the said Acts, and all agreements, contracts, arrangements, obligations, liabilities, matters and things whatsoever, had, made, done, executed, incurred, entered into, or subsisting by or between the inhabitants or householders or school trustees in any school district, town, place, or locality whatsoever, in this Island, and any teacher or teachers, or by or between any other person or persons, at the time of the passing of this Act, in pursuance, or under or by virtue of any of the said Acts which are hereby repealed, are hereby expressly declared to be, and the same shall remain and continue to be, in all respects, good, valid, absolute, binding and effectual, both at law and in equity, under the operation of this Act, as if the said recited Acts, and every of them, still remained in full force, and not in any manner abrogated or repealed.

Continuance of Act.

XCVII. This Act shall be and continue in force for the period of two years from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

SCHEDULE (A.)

Notice from teacher of his engagement.

Notice from teacher of his engagement.

I hereby give notice that I have entered into an agreement, bearing date the day of 18 to teach the

school in the settlement of _____ in township number _____
 (or the town or royalty of _____ as the case may be,) for
 the term of _____ and that the said school was opened by
 me on the _____ day of _____ 18 _____

A. B., Teacher.

We do hereby certify that the foregoing statement is correct.

C. D., }
 E. F., } Trustees.
 G. H., }

SCHEDULE (B.)

Teacher's certificate to obtain salary.

We the undersigned trustees of the school at _____ on
 township number _____ do hereby certify that A. B., teacher
 of the _____ class, has diligently, faithfully and soberly dis-
 charged his duties during the last _____ months as teacher of
 our school, and has duly kept a journal of the said school du-
 ring the said period, and in all other respects has complied with
 the provisions of the Act of the twenty-fourth year of the reign
 of her present Majesty, chapter _____ intitled "An Act
 to consolidate and amend the several laws relating to educa-
 tion," and is entitled to receive the sum of _____ for
 his said services; and that a schoolhouse, in accordance with
 the said Act has been provided. As witness our hands, this
 _____ day of _____ 18 _____

Teacher's certi-
 ficate to obtain
 salary.

Trustees of school.

(To be signed by the trustees, in the presence of one another.)

I certify that the foregoing statements, to the best of my
 knowledge and belief, are correct.

_____ J. P.

SCHEDULE (C.)

Form of agreement with teacher.

These presents witness, that A. B., licensed teacher of the
 class, (or as the case may be), doth hereby agree
 and engage with C. D., E. F., G. H., I. J. and K. L., trustees
 of the _____ district school, township number _____ in
 Prince Edward Island, to conduct the said school duly, faith-
 fully and punctually, in accordance with the Act of the twenty-
 fourth year of the reign of her present Majesty, chapter _____
 and the rules and regulations of the Board of education, from
 and during the term of one year from the _____ day of _____
 according to the best of his skill and ability;
 and the said trustees do, on their part, agree and engage to

Form of agree-
 ment with
 teacher.

keep the schoolhouse in the said district in substantial repair, and comfortable for the accommodation of the teacher and scholars; to provide sufficient fuel, cut at all times, for the use of the said school; to provide such books and school furniture as may be prescribed by the Board of education and visitor of schools; to visit and inspect the said school, to direct the discipline thereof; to keep in as regular attendance as possible all the scholars resident in said district; and further, that the parents of all children residing within the said district shall make good any reduction in the amount of the Government allowance to the said *A. B.*, which may be occasioned by a deficiency in the attendance of the average daily number of eighteen scholars, as required by the section of the said hereinbefore recited Act of the twenty-fourth Victoria, chapter and on the performance by the said teacher of his part of this agreement, to give him the certificate necessary to enable him to receive the allowance to which he is entitled from the treasury of this Island. (If there be any further agreement between the parties as to any allowance by voluntary subscription to the teacher, or as to his board, or otherwise, insert the same here.)

In witness whereof, the said parties to these presents have hereunto set their hands, this day of 18

A. B., Teacher.

Signed in the presence of

C. D.,
E. F.,
G. H.,
I. J.,
K. L., } Trustees.

SCHEDULE (D.)

Form of notice of meeting to appoint trustees.

NOTICE.

**Form of notice
of meeting to
appoint trustees.**

A meeting of the inhabitants, resident householders, within school district number on township number (describe the district according to its registered name or usual designation) will be held at the schoolhouse in said district, (or as the case may be), on the day of next, (or instant, as the case may be,) at o'clock, in the noon, for the purpose of electing trustees for the said school district, according to law.

Dated this day of 18

A. B.,
C. D.,
E. F.,
G. H., } Resident householders within said district.

ANNO VICESIMO QUINTO

VICTORIÆ REGINÆ.

At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the twentieth day of February, *Anno Domini* 1862, in the twenty-fifth year of the Reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, Queen, Defender of the Faith:

1862.

G. DUNDAS,
Lt. Governor.

CHAS. YOUNG,
President of
L. Council.

Being the fourth session of the twenty-first General Assembly convened in the said Island.

D. MONTGOMERY
Speaker of H.
of Assembly.

CAP. I.

An Act to amend the Act to provide for the organization of a volunteer force for the defence of this Island.

[Passed March 26, 1862.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, as follows:

I. The fourth and tenth sections of an Act passed in the twenty-fourth year of her present Majesty's reign, intituled "An Act to provide for the organization of a volunteer force for the defence of this Island," be, and the same are hereby respectively repealed.

Repeals 4th and
10th secs. of
24th Vic. c. 11.

Requirements
necessary to
constitute effective
members of
volunteer corps

II. Only those shall be deemed effective members of volunteer corps who shall have attended muster or exercise, properly armed and accoutred, whether cavalry or infantry, eight times at the least in the six months immediately preceding the return required by the provisions of the hereinbefore recited Act for the organization of a volunteer force for the defence of this Island, and who shall have been duly returned by the commanding officer as effective members, and as having taken the oath of allegiance.

CAP. II.

An Act to consolidate and amend the laws relating to statute labor, and the expenditure of public moneys on the highways.

[Passed April 17, 1862.]

Repeals 14 Vic.,
c. 16.

16 Vic., c. 7.

17 Vic., c. 15.

18 Vic., c. 8.

22 Vic., c. 10.

23 Vic., c. 43.

BE it enacted, by the Lieutenant Governor, Council and Assembly, that from and after the passing of this Act an Act made and passed in the fourteenth year of the reign of her present Majesty, chapter sixteen, intituled "An Act to consolidate and amend the laws relating to statute labor and the expenditure of public moneys on the highways;" an Act made and passed in the sixteenth year of the reign of her present majesty, chapter seven, intituled "An Act relating to the highways in Charlottetown, common and royalty, and certain other parts of Queen's County, and to the performance of statute labor and the expenditure of public money therein;" also an Act made and passed in the seventeenth year of her present Majesty's reign, chapter fifteen, intituled "An Act to amend the law now in force relating to statute labor, and the expenditure of public moneys on the highways;" "also an Act made and passed in the eighteenth year of the reign of her present Majesty, chapter eight, intituled "An Act to amend the law relating to the performance of statute labor, and to authorize the establishment of certain additional road districts, and the appointment of road Commissioners therefor;" also an Act made and passed in the twenty-second year of her present Majesty's reign, chapter ten, intituled "An Act to amend the Act to consolidate and amend the laws relating to statute labor, and the expenditure of public moneys on the highways;" and also an Act made and passed in the twenty-third year of her present Majesty's reign, chapter forty-three, intituled "An Act to make certain alterations in the laws for the performance of statute labor on, and the improvement of the highways" be and the same are hereby respectively repealed.

II. It shall be lawful for the Lieutenant Governor, with the consent of Her Majesty's Executive Council of this Island, after the passing of this Act, to nominate and appoint a
Road Commis-
sioner to be ap-

Commissioner of highways for each of the districts named in the schedule to this Act annexed, marked (A,) who shall be a resident therein — except as hereinafter named — and from time to time to fill up any vacancy occurring in any such office, by death, removal, resignation or otherwise of any such Commissioner, and which Commissioner so appointed shall not continue in office for a longer period than three years, unless reappointed as aforesaid; and it shall be the duty of every such Commissioner to appoint overseers of statute labor annually, and to direct such overseers where, when and how such statute labor shall be performed, and to receive from such overseers, returns of their doings in manner hereinafter directed, and to make a yearly return to the Lieutenant Governor, in Council, of all their actings and doings relative to the performance of statute labor within the district to which such Commissioner shall or may be appointed; provided always, that when it shall be necessary to appoint, to supersede, or fill up the vacancy in the office of any Commissioner of highways, for district number twelve, in Queen's County, it shall be lawful for the Lieutenant Governor, in Council, to appoint any person as Commissioner of highways for the said district, whether such person be resident in the said district or elsewhere in this Island; provided further, that every Commissioner of highways heretofore appointed and holding that office at the passing hereof, shall be deemed to be a Commissioner of highways under this Act.

pointed for each district named in schedule to this Act.

No Commissioner to remain in office longer than 3 years.

Proviso as to district No 12.

III. There shall be paid out of the moneys in the public treasury of this Island, to the Commissioners of highways to be appointed under this Act, or who shall be in office at the passing thereof, for their services in the execution of their duties as such Commissioners, the following sums respectively, namely: the sum of twenty-five pounds *per annum* to the Commissioner of district number twelve, in Queen's County, to be due on the first day of January, and the first day of July in each year; and the sum of ten pounds *per annum* to the Commissioner of each of the several remaining districts in the said Island, and which said several sums respectively shall be in lieu of all fees or percentages on moneys expended; and shall be paid by warrants, under the hand and seal of the Lieutenant Governor, drawn on the Treasurer of this Island.

Allowance to Commissioners.

IV. If any Commissioner of highways under this Act, shall, after signifying his acceptance of said office, neglect or refuse to carry the provisions of the same into effect, or any of them, so far as they are imposed on him by virtue of his said office, he shall for every such neglect or refusal, on due conviction thereof, forfeit and pay the sum of five pounds; to be recovered before any one of Her Majesty's Justices of the

Penalty on Commissioner &c., for neglect of duty.

Peace, or Commissioner of small debts, on the oath of one or more credible witness or witnesses.

Overseers to be appointed on or before the 15th May in each year, &c.

V. Each Commissioner so to be appointed as aforesaid, or who shall be in office at the passing of this Act, shall, on or before the fifteenth day of May in each year, nominate and appoint such number of overseers within his district, as to such Commissioner shall appear to be for the public good, and shall prescribe to such overseers the limits and boundaries of their respective precincts within which they shall have authority, and the roads and parts of roads, or the bridges where the statute labor shall be wrought, and where the money received in commutation thereof, shall be laid out and expended; and each overseer shall, immediately after notification and acceptance of his appointment, give notice of his appointment to the inhabitants of his precinct, by causing a notice to be posted up in the most public place within such precinct, to the end, that such inhabitants may know to whom to commute the payment of their statute labor in terms of this Act.

Overseers to give notice of their appointment.

Penalty in refusing to accept office of overseer.

VI. If any person liable to statute labor under this Act, shall refuse to accept of the office of overseer, he shall be liable to a fine of two pounds, provided always that no person shall be compelled to serve that office more than once in every three years; but if any person shall accept of the same more than once within such period, he shall be liable to all the rules, regulations, and duties pertaining thereto, as prescribed in this Act; and on any overseer failing or neglecting to perform all or any of the duties of said office as herein pointed out, he shall forfeit and pay a sum not exceeding five pounds.

Penalty on overseer for neglect of duty.

Overseers in office at the passing of this Act to continue such, &c.

VII. The overseers of highways, appointed under the provisions of any one or more of the Acts hereby repealed, and who shall be in office at the passing of this Act, shall be considered the overseers of highways under this Act, and shall be liable to all the rules, regulations and duties pertaining to that office as herein prescribed.

In case of sickness, &c., of overseer, Commissioner to appoint another in his place.

VIII. In case of the sickness or death of any overseer, or absence from his precinct, after his appointment under this Act, it shall and may be lawful for the Commissioner within such district to appoint some other person to perform the duties of such deceased or absent overseer, at any time before the time limited for the performance of statute labor as before prescribed.

Overseers to summon inhabitants.

IX. The said overseers of the highways shall, and they are hereby required and empowered, in pursuance of the orders they shall receive from time to time, from the Commissioner of the district, to summon the inhabitants residing within their respective precincts, giving them at least ten days' notice

of the time and place where and when they intend to employ them; and they shall direct and order the persons so summoned to labor in making and repairing the highways, streets or bridges, in the most effectual and advantageous manner, for and during the number of days appointed by this Act for such service or labor, they the said overseers being hereby exempted and excused from any other labor and service, on or relative to the highways, than the issuing of summonses, ordering and overseeing the performance of the statute labor within their respective precincts, and making out and returning, within the time limited, exact and true reports of their doings on the highways, lists containing names of those who have performed their statute labor or paid their commutation money, lists of absentees and other returns as next hereinafter pointed out.

Overseers exempt from other labor.

X. Every overseer of highways is hereby required and directed, at the expiration of two months from the time of the performing of statute labor within his precinct, to account with the Commissioner of the district within which such overseer shall reside, for his conduct in the execution of his trust as overseer, and to report to him in writing the work and labor really done and performed, and the application, accompanied with the proper vouchers and discharge, lists of absentees, of the fines and forfeitures incurred, whether levied or in arrear, why the same have not been levied, how applied in promoting the intentions of this Act, and also account for all moneys received in commutation of labor, and application of the same; which moneys shall be expended by the overseers at public competition under the direction of the Commissioner, within ten days after the labor has been performed, and within the precinct or precincts where such moneys were collected.

Overseer to account with Commissioner.

Commutation money to be expended under direction of Commissioner.

XI. In addition to the report or returns required by the last preceding section, after the expiration of the time limited by this Act for the performance of statute labor, or by the City law for payment of City tax, every overseer of highways and every City collector shall prepare a list containing the names, set forth at length, of all persons within his precinct, who have performed their statute labor, or paid their commutation money, or City tax in lieu thereof, as well as of all persons eligible to perform the same, but who shall have been excused or privileged from such performance by Act of General Assembly, together with the ages and places of residence of all such persons; which list shall be according to the form set forth in the schedule to this Act annexed, marked (H), and the same shall be delivered into the hands or custody of the Commissioner of highways authorized to receive the same, or to the Mayor of the City, where made by the City collector, on or before the first day of August in each year.

Overseer or city collector to prepare list of names of persons having performed statute labor, &c.

Said report, &c.
to be subscribed
and attested to
by overseer, &c.

XII. The report or returns, together with the list of names required by the last two preceding sections, to be furnished by every overseer to the Commissioner of highways, and by the City collector to the Mayor of the city respectively, shall be subscribed and attested to upon oath by every overseer and city Collector, as aforesaid, before one of Her Majesty's Justices of the Peace, in the form in the schedule to this Act annexed, marked (C,) (those words in said form having reference to the report or returns of the overseers being omitted when the oath is taken by the City collector;) and in case any such overseer, or City collector, shall fail or neglect to perform all or any of the duties hereinbefore required of each of them respectively, or to certify and attest to the report or returns, and list of names, as herein directed, he shall forfeit and pay a sum not exceeding five pounds.

Penalty.

Commissioner
to keep toge-
ther, without
alteration, lists
returned to him
by overseer,
and transmit
same to Road
correspondent.

XIII. Every commissioner of highways shall carefully keep together the various lists of persons returned to him by the overseers, as having performed their statute labor, or paid their commutation money, and shall, on no account alter, or suffer any other person to alter the same in any particular; and shall, as soon as possible, after the first day of August, in each year, transmit the same, enclosed and sealed, to the Correspondent of roads, in Charlottetown, whose duty it shall be to keep such lists, each respectively under label, denoting the county and district to which every such list belongs, in order that reference may at any time be made, with as little inconvenience and research as possible, to any particular list, or any particular name in any such list.

Male persons
between 16 and
60 years of age
to work on
highways, &c.

XIV. Every male person between the ages of sixteen and sixty years, except as hereinafter is excepted, shall, when appointed or required thereto, either by himself or some sufficient substitute, and provided with such necessary implement or implements as may be directed by the overseer of the precinct, work for the space of four days or thirty-two hours, in every year, on the said highways, streets or bridges; provided always, that nothing herein contained shall extend, or be construed to extend, to render liable to statute labor any person whomsoever who shall not have been, at the time of the appointing of the overseers, a resident of this Island for at least six calendar months: provided also, that when any person shall claim to be exempted, by reason of his being upwards of sixty years of age, he shall, previous to the first day of May in the year in which he shall be entitled to claim such exemption, make and subscribe an affidavit, to that effect, before one of Her Majesty's Justices of the Peace, such affidavit to be lodged in the office of the Commissioner of highways for the district, who shall file the same, and said affidavit shall be taken as evidence of his being exempt on all occasions during the con-

Certain persons
exempt from
statute labor.

tinnance of this Act; and provided further, that all ministers of religion, country postmasters, and all school teachers, who are entitled to receive legislative aid as such, shall be exempt from the performance of statute labor under this Act.

Persons exempt
from statute
labor.

XV. Every such male person, as aforesaid, possessing a horse and a cart, or possessing two horses and a cart, or two working oxen and a cart, or possessing one horse, or two horses, or two working oxen, without a cart, shall, if so directed by the overseer of the precinct within which he resides, bring out or send such horse or horses, or oxen and cart, if possessing one, accompanied by one able bodied man, for three days in every year, to work on the highways, streets or bridges of the precinct wherein such male person, as aforesaid, shall reside, for the space of eight hours in each day.

Rates of labor
for males pos-
sessing horses,
&c.

XVI. When in the opinion of the overseers the labor of men will be more useful than that of cattle, all persons liable to send two horses or two working oxen, with or without a cart, as aforesaid, shall, instead thereof, send two men for three days, or one man for six days, or forty-eight hours, to labor on the roads, which said labor shall complete their yearly sum-mer statute labor; and a person owning one horse, with or without a cart, or one pair of oxen only, shall, in such case, work, or cause to be worked, five days or forty hours labor.

Possessors of
horses may be
called upon to
send men in
lieu thereof.

XVII. The horses and teams of all persons whomsoever, as well of those who are over sixty years of age, as of those who are under that age, shall be liable to the performance of statute labor under this Act, and the owners thereof, respectively, shall send out such teams: provided always, that nothing in this clause shall extend to widows having no male children under their control, above the age of sixteen years, or who employ no male servants above that age.

Horses, &c., of
persons over 60
years of age
liable to statute
labor.

XVIII. Nothing in this Act contained shall exempt from liability to perform statute labor, and to comply with the other provisions of this Act, the masters, officers or crews of vessels, who may be either leaseholders, freeholders or occupiers of houses or lands in this Island, and have their usual place of residence therein, notwithstanding they may not have resided in this Island for the space of six months consecutively, prior to the time when such statute labor is required to be performed, but they shall be liable for such statute labor, and to comply with the other provisions of this Act, notwithstanding such want of residence as aforesaid.

Masters, &c. of
vessels having
houses or lands
in this Island
liable to sta-
tute labor.

XIX. All persons liable to perform statute labor, although absent from the Island, and all persons neglecting or not attending to perform the said duty faithfully, and to the satisfaction of the respective overseers, shall forfeit three pence

Fine for neg-
lecting to per-
form statute
labor.

Made of recovery of fine.

for every hour's neglect; and any one of her Majesty's Justices of the Peace, or the Commissioner of small debts nearest to the residence of such overseer, is hereby empowered and required, on complaint made to him by an overseer of the highways, to issue a summons, in the form in the schedule to this Act annexed, marked (D,) under his hand and seal, summoning the person or persons so neglecting to appear before him in order that the complaint may be heard and determined, and upon proof being made of such person's nonappearance, refusal, or neglect, the said Justice or Commissioner of small debts shall cause the said forfeiture to be levied, together with the expenses of levying, by warrant of distress and sale of the offender's goods and chattels; and the sum so levied shall forthwith be put into the hands of such overseer as shall have prosecuted for the same, to be by him applied for and towards the repairs of the highways within his precinct, in such manner as the Commissioner thereof shall and may direct; if no goods and chattels can be found whereon to levy, then the offender shall suffer imprisonment for a period not exceeding forty days, nor less than eight days.

Appropriation of fine.

Statute labor may be commuted for money.

XX. Provided always, that all persons liable to perform statute labor under this Act shall have the option, instead of such labor, to pay annually, on or before the first day of the commencement of the statute labor in the respective districts, the sums of money respectively as follow, that is to say: every male person, not being the owner or possessor of a horse or pair of working oxen, the sum of three shillings; and every person whether liable to be exempted from the performance of statute labor, or not, owning or possessing one or more horses above the age of four years, or one or more pairs of working oxen, the sum of one shilling and six pence for each and every such horse or pair of oxen owned or possessed by such person; provided, that where a widow, having no male children under her control, above the age of sixteen years, or who employs no male servant above that age, shall own but one horse, such widow shall be exempted from the payment of commutation money for the same.

Commutation money how expended.

XXI. Every Commissioner shall expend the money paid to him, under the preceding section of this Act, on the highways within his district, and in such way and manner as shall appear to him most conducive to the public interest; and shall within five months after the period for the performance of the statute labor, deliver in to the Lieutenant Governor and Council, an exact account of all moneys received by him as commissioner, as aforesaid, and of the application thereof; and he shall certify and attest to the same before one of her Majesty's Justices of the Peace, previous to transmitting the same, in the form set forth in the schedule to this Act annexed, marked (E,) and

Account to be laid before Governor and Council.

shall at the same time make a full and distinct report of all his actings and doings, as such Commissioner, with an account of the state and condition of the highways within his district, prior to the performance of statute labor, and subsequent thereto; and until such account and report shall be given in, such Commissioner shall not be entitled to receive any salary or recompense whatever for such services.

No salary to be paid Commissioner until account given in.

XXII. Every Commissioner who shall neglect or refuse to certify and attest the account, as hereinbefore directed, shall forfeit and pay a sum not exceeding five pounds, the same to be recovered, with costs of suit, in the name of the road correspondent, for the time being, or any other person who shall prosecute for the same, on the oath of one or more credible witness or witnesses, before any one of her Majesty's Justices of the Peace in the County wherein such Commissioner's district shall be situate.

Penalty on Commissioner for not certifying account, &c.

XXIII. When any Commissioner appointed under this Act, or who shall be in office at the passing thereof, shall be directed by the Lieutenant Governor to lay out and expend the public moneys appropriated for the making and repairing of roads and bridges, such Commissioner or other person or persons shall, and they are hereby required and directed, except in cases of casual repairs, to cause advertisements to be inserted in the public newspapers of the Colony, and shall also cause similar advertisements to be posted up in the vicinity of the place or places where such work is to be performed, giving fourteen days' notice thereof, that on the day and hour named in such advertisement, will be sold or let to the lowest bidder, on the spot where such work is to be performed, the roads or bridges named in such advertisement; and the said Commissioner or other person or persons so appointed, as aforesaid, are hereby directed to let all such roads and bridges on the best and lowest terms, taking good and sufficient security or securities for the faithful performance of every contract or contracts so entered into; and any person or persons who shall take down, deface or destroy any advertisement posted as aforesaid, shall be liable to a fine not exceeding twenty shillings for every such offence.

Duty of Commissioner when directed to lay out moneys on the highways, &c.

XXIV. The moneys so directed to be expended, as aforesaid, shall be paid by the direction of the Lieutenant Governor to the person or persons entitled to receive the same, on the certificate of the Commissioner appointed to expend such money, as the case may be, according to the contracts entered into.

Contractors to be paid on certificate of Commissioner.

XXV. The rate or duty of all male persons between the ages of sixteen and twenty-one years, shall be paid by the parents of such persons respectively, in all cases where such

Rates due from minors, &c., how payable.

parent shall retain the ordinary control and derive the ordinary services of persons within such ages; and the rate or duty of all apprentices shall be paid by their masters, but every such master shall nevertheless be entitled to retain such amount out of any wages by him payable to such apprentices, over and above any sum allowed for board, lodging and clothing only: the said rate or duty shall and may be sued for in manner hereinbefore prescribed in this Act, and the like process for the recovery of the same, used and taken as therein mentioned.

Every person 20 years of age who performs his statute labor or pays commutation money, &c. to receive certificate from overseer, &c.

XXVI. Every person who shall have duly performed his statute labor, or paid his commutation money or city tax in lieu thereof, and being of the age of twenty years, shall be entitled to receive from the overseer of roads for the precinct wherein such person shall have resided, or if resident in Charlottetown, from the City collector, and the said overseer or City collector is hereby required to give a certificate in writing, or partly in writing and partly in printing, subscribed with the name of said overseer or City collector, written by himself or by some person in his presence, and by his authority and request, wherein shall be acknowledged and expressed, the performance of the statute labor, or receipt of commutation money, or City tax, as performed or paid by the person named in said certificate, whose name or names shall be written in full, and the date of the year, which shall be in words at length, for which such labor shall have been performed, or commutation money, or City tax paid, and which certificate shall also bear date on the day when signed, and shall be in substance according to the form 1, 2 or 3, (as the case may be), in the schedule to this Act annexed, marked (F), and when granted to any person between the ages of twenty and twenty-one years, shall have expressed therein the additional words. "under age."

Fee to overseer for certificate.

XXVII. Every overseer shall be entitled to retain out of the commutation money paid into his hands, the sum of three half pence for every certificate so by him given as aforesaid; and in case the commutation money, paid into his hands, shall not be sufficient to meet such charge, any deficiency shall be made up to him out of the public treasury of this Island: provided that no such overseer shall have any claim upon the government for any such deficiency, if he shall during the year have received sufficient commutation money to have satisfied the same.

Road correspondent to furnish commissioner with blank forms of certificates.

XXVIII. It shall be the duty of the road correspondent to furnish the Commissioners of highways every year, or as often as it shall be required, with blank forms of the aforesaid certificate, at the expense of the Government of this Island,

and said Commissioners are hereby required, at the time of the commencement of the statute labor in each year, to supply the various overseers of their respective districts, with such quantities of said blanks as may be required for the purposes of this Act.

XXIX. No overseer or City collector, shall on any account grant or sign any such certificate, after the lapse of two calendar months, next after the day limited for the performance of statute labor, or payment of commutation money or City tax.

After certain time, no overseer, &c. to grant certificate.

XXX. Any person whose lawful certificate shall have been lost or destroyed by unavoidable accident or misfortune, shall be entitled to a duplicate thereof, from the said overseer or City collector on subscribing an affidavit in writing, and swearing thereto, before any one of her Majesty's Justices of the Peace, residing in or near the precinct or town where such person shall have performed, or been liable to perform his statute labor, and on payment of the sum of three pence to the overseer, for such duplicate, who shall write thereon the word "duplicate:" provided that the cause or means by which the original certificate shall have been lost, shall in such affidavit be clearly expressed, and the said affidavit shall be countersigned by the said overseer or collector, and afterwards returned by him to the Commissioner for his precinct, or to the Mayor of the city, as the case may require.

Any person who loses certificate may obtain duplicate in certain cases and upon certain conditions.

XXXI. Every person who shall forge or counterfeit, or in order to forge or counterfeit, shall erase or alter any overseer's or collector's certificate granted as aforesaid, or shall utter or make use of any such forged, counterfeited, altered or erased certificate, knowing the same to have been forged, counterfeited or so erased or altered, with intent to defraud, shall be deemed guilty of forgery, and shall suffer the pains and penalties now by law inflicted upon persons guilty of the offence of forgery.

Persons forging or altering certificates, or using forged ones to be deemed guilty of forgery.

XXXII. In every case where any overseer of roads or collector of City tax, shall entertain any doubt of the age of any person applying for a certificate of the performance of his statute labor, or payment of his commutation money or City rate, no such certificate shall be granted to any such applicant unless an affidavit shall be first subscribed, and sworn by him, or some other credible person, before a Justice of the Peace or Commissioner of small debts, testifying to the age of such applicant, and lodged with such overseer or collector, as aforesaid.

Where overseer &c. doubts age of person applying for certificate, not to grant unless an affidavit be made of age of applicant.

XXXIII. Whenever it shall become necessary to ascertain, in or by any judicial inquiry, or before any lawfully constitu-

The absence of name of any person in any

list to be *prima facie* evidence of not having performed statute labor, &c.

ted tribunal, the fact of any person having duly performed his statute labor, or paid his commutation money, or City tax, in lieu thereof, reference may be had to the lists returned, as aforesaid, to the road Correspondent and Mayor of the City, and the absence of the name of such person in such list, shall be deemed *prima facie* evidence of his not having performed his statute labor, or paid his commutation money, or City tax.

Penalty on overseer or collector granting a false certificate.

XXXIV. Every overseer of statute labor, or collector of City tax, who shall grant any certificate falsely testifying that the person therein named, hath performed his statute labor, or paid his commutation money, or City tax, with intent that such false certificate shall be used to deceive, mislead, or defraud any judicial officer, or minister of justice, each and every overseer, or collector, as aforesaid, shall forfeit and pay for every such offence any sum not less than ten pounds, nor more than thirty pounds; the same to be recovered, if over twenty pounds, in her Majesty's Supreme Court of Judicature, by bill, plaint, or information, on the oath of one or more credible witness or witnesses; and if under twenty pounds, then in any court of Commissioners for the recovery of small debts in the County wherein such offence shall have been committed.

Mode of recovering penalty.

Statute labor to be performed in any six days between 20th June and 20th July annually.

XXXV. From and after the passing of this Act, the whole of the statute labor shall be performed between the twentieth day of June and the twentieth day of July, annually, each overseer to advertise the inhabitants to perform the statute labor in any six days within the last mentioned period, which, in his discretion, he may judge most convenient to the inhabitants of the precinct; the advertisements being not less than three in number, and to be posted in the most public places of the precinct of such overseer, at least ten days before the period of performing such labor, which shall be held a sufficient warning.

Commissioners may direct inhabitants to repair bridge, &c. when deemed necessary.

XXXVI. Provided always, that whenever, and as often as it shall come to the knowledge of any Commissioner of highways, that any highway, or part thereof, or small bridge or watercourse, within his district, has been so damaged or injured, by reason of the melting of the snow, or spring freshets, or or any other casualty, as to require immediate repairs, it shall be his duty, and he is hereby required, to direct so many of the inhabitants in the immediate vicinity thereof, to repair the same without loss of time, in such manner as he may direct; and any such inhabitant or inhabitants, so working under the directions of the said Commissioner, shall be allowed for the same out of his or their general statute labor for that year required by this Act.

XXXVII. No overseer shall have power or authority to compel any person to work his statute labor at a distance exceeding five miles from the place of such person's residence.

No person compelled to work more than five miles from residence.

XXXVIII. It shall be lawful for the Commissioner of each district, whenever he may think it necessary, to appoint some person or persons, contiguous to the bays or rivers, for the purpose of placing bushes in the ice, on the best track generally used by travellers, as early in the winter as the ice may become passable; and the Commissioner is hereby required to notify the overseers of the different precincts, of the persons so appointed; and on such person so appointed, performing the requisite duty, they are hereby declared to be liable to no other statute labor during that year; and any person who shall wilfully cut, break down, or remove any bushes placed as aforesaid, shall be liable to a fine not exceeding five pounds, and not less than ten shillings.

Commissioners to appoint persons to mark out winter roads as they see fit.

Penalty for removing, &c., bushes.

XXXIX. The overseers of highways shall have power, and they are hereby required, during the winter season, to summon as many of the inhabitants in their respective precincts as they in their discretion shall think fit, to work at the times and places appointed on the highways, or public winter roads, by breaking roads in the snow with their horses, oxen, or teams, if possessed thereof, or by levelling pitches on such winter roads, and with such implements as the overseer may deem requisite, whenever the depth of snow or state of the roads shall render the same necessary, in each winter, and at no greater distance than five miles from their own houses; and such inhabitants shall perform the same work, over and above that which such inhabitants are liable to perform upon the highways, roads and bridges by this Act; and each and every person neglecting or refusing to turn out with his team or teams, or with such implements as may be directed by the overseer of the precinct, shall be liable to a fine not exceeding ten shillings for every such neglect or refusal; and the overseers of precincts are authorized to appoint a person or persons to notify the inhabitants in their precincts, when they are required to turn out, for the purpose of breaking the winter roads or levelling pitches thereon, as aforesaid, which person or persons so notifying the inhabitants of the precinct, shall be exempted for one day from such labor in breaking the roads, for each time they shall be engaged in so notifying, as aforesaid.

Overseer may summon inhabitants to break winter roads when necessary.

Persons to be appointed to notify inhabitants, who shall be exempt from one day's work therefor.

XL. It shall be in the power of each overseer of a precinct, or Commissioner of a district, to order the removal of any obstruction or nuisance in the highways, within his precinct or district; and on a summary complaint to any one of her Majesty's Justices of the Peace, or a Commissioner of small debts,

Commissioners or overseers to order removal of nuisances, &c.

Thistles, &c. to be cut down.

to recover from the person or persons causing such obstruction or nuisance, the expense incurred in removing the same, provided such expense shall not exceed five pounds; and if no owner of the article causing such obstruction or nuisance can be found, then the overseer or commissioner shall have such obstruction or nuisance removed, and shall cause the same to be sold, or so much thereof as will pay for the expense of such removal; and the overseers of precincts are hereby required to cause all thistles, daisies, and other obnoxious weeds, growing on the highways, in their respective precincts, to be destroyed or cut down during the time of performing statute labor.

Summer labor may be commuted for winter labor.

XLI. It shall and may be lawful for the Commissioner of any district to commute as much of the statute labor as he may deem expedient, for an equal quantity or value of labor to be performed in the winter season, in procuring and hauling timber for the building or repairing of bridges, and for levelling and repairing any public roads, not being main post roads, within his district.

Width of highway.

XLII. From and after the passing of this Act, every highway in this Island, unless where legally established at a less width, shall be of the width of sixty feet; and no occupier of ground adjoining the highways, or any other person, shall encroach thereon, by fencing or otherwise, under a penalty not exceeding twenty shillings for each and every day such encroachment shall be allowed to remain, after due notice to remove the same.

Penalty for encroachment.

Power and duty of commissioner when drains are necessary to be opened.

XLIII. When and as often as it may, in the opinion of the Commissioner of any district, become necessary for the draining of any highway, to cut or open any ditch or drain from the side of any highway, through any land adjacent thereto, and the owner or occupier thereof shall refuse his consent for so doing, then any two of her Majesty's Justices of the Peace shall, upon application of such Commissioner, issue a summons directed to such owner or occupier to appear before them, at a time and place therein mentioned, of which at least three clear days' notice shall be given to such owner or occupier, to show cause why the said drain should not be opened; and in default of appearance, or after hearing the said owner or occupier, and evidence relating thereto, such Justice shall and may make an order for the opening of such drain to run in such course, and of such width, depth and extent, as to such Justice shall seem needful and necessary; and the costs of such suit shall be paid, as by such Justice shall or may be adjudged, and be enforced by execution in manner as the same is issued for the recovery of small debts; and the order of such Justice, in such case made, shall be full authority and justification for the said Commissioner and all persons

Justice may order drains to be made.

Order of such Justice full authority for opening drains.

employed therein, in opening such drain, or in clearing or keeping open the same, and may be proved as often as shall become necessary under a plea of the general issue: provided always, that if at any future time it should be made to appear to such or any other Justice, that such drain has become unnecessary, or is no longer useful, then he shall make an order for the same to be closed; and provided also, that every such owner or occupier who may feel aggrieved by any such order, shall and may appeal therefrom to the Supreme Court of Judicature in manner prescribed by law for appeals in matters of small debts; and the Supreme Court, on hearing such appeal, may reverse, annul, vary, or limit such order, and award costs thereupon, as to such Court shall seem just and necessary.

Gives an appeal to owners of land against Justices' order.

XLIV. The Commissioner of highways for district number eleven, in King's County, is hereby empowered and directed from time to time, as occasion may require, to cause and procure the public sewer in Kent street, in Georgetown, to be opened and thoroughly cleansed and repaired.

Commissioner to open public sewer in Georgetown, &c.

XLV. Any inhabitant of Georgetown may, at his own expense, and on permission from the Commissioner for the district, in writing, first had and obtained, open a drain or drains from his dwelling house, or other place or premises, into the said public sewer, in Georgetown; provided said drains be opened and constructed under the direction and superintendence of the said Commissioner, whose duty it shall be to cause the same to be opened, and made in a fit and proper manner, and properly covered and secured.

Any inhabitant of Georgetown on permission given by Commissioner, &c. may open a drain into the public sewer.

XLVI. Any person or persons opening any drain, or other passage, from his or their dwelling house or houses, or other place or premises, into the said public sewer, without the permission of the said Commissioner of highways first had and obtained as hereinbefore directed, or opening the same in an improper manner, or refusing or neglecting to cover, secure and construct the same, or to close up, repair or clean such drains, according to the order and directions of the said Commissioner, shall, after the expiration of twenty-four hours' notice in writing from the said Commissioner, to alter, repair, clean, or close up the same, forfeit and pay, for every such offence, the sum of twenty shillings; and for every twenty-four hours during which any such person or persons shall refuse to obey any order relating to such drains, and contained in such notice from the said Commissioner, such person or persons shall forfeit and pay the sum of twenty shillings, to be recovered and appropriated as hereinafter directed.

Persons opening a drain into said sewer without permission of the Commissioner, &c., liable to be fined 20s.

XLVII. If any person or persons shall hereafter place any timber, wood, stone, or other weighty article or articles upon any bridge within this Island, or shall fasten any vessel or

Penalty on persons obstructing bridges, fastening ves-

sals thereto, or
in any way in-
juring the same

vessels thereto, or shall in any other way injure any such bridge, he or they shall pay a fine not exceeding five pounds for every such offence; to be recovered, as hereinafter directed, over and above any damage done to any such bridge.

Persons to be
appointed to
superintend
bridges, &c.

XLVIII. Provided always, that any Commissioner of highways is authorized to appoint such person or persons, as he may think fit, within his district, whose duty it shall be to allow vessels to moor or make fast to any bridge within his district, and also in cases where it shall be necessary to open or raise a part of any bridge to allow a new vessel or vessels, built above the same to pass through, to cause the same, at the instance of the owner or master of any such vessel, to be so opened or raised for such purpose, and to superintend the passage of such vessel through the same; and after such passage to cause the portion of such bridge so opened or raised, to be replaced, and the bridge restored to its original state with the least possible delay; and such person, so appointed, is hereby authorized to take and receive from the owner or master of any such vessel so moored or made fast to such bridge, the sum of two shillings *per* day, Sunday excepted, during the time she may be moored or made fast to such bridge; and for his attendance and trouble in superintending the passage of any new vessel, as aforesaid, and refitting the bridge after such passage, the sum of one shilling for the first hour, and six pence for every additional hour he shall actually be at work, from the time of the opening of the said bridge until it shall be refitted, besides the expenses incurred in opening such bridge and refitting the same; and a sufficient sum to cover all damage or injury that may be done to the said bridge; and in case of refusal of the master or owner to pay such sum as he may be liable to pay, as aforesaid, then it shall be lawful for the person so superintending such bridge, to sue for and recover the same, with (costs; and in all cases the same is to be accounted for on oath to the Commissioner of the district,) before any one of her Majesty's Justices of the Peace, or Commissioner of small debts, by *capias* or otherwise; and the amount of such judgment, with costs, shall be realized by warrant of distress and sale of the materials of the vessel, one half of such rate to be paid by the superintendent as aforesaid, and the other half to the Commissioner of highways in whose district the bridge may be, to be expended for the repairs of said bridge.

Rates payable
by owners of
vessels.

Mode of recov-
ery thereof.

Mode of recov-
ery of fines
and forfeitures.

XLIX. All fines and forfeitures, arising under and by virtue of this Act, shall be sued for, and recovered with costs, before any one of her Majesty's Justices of the Peace, or any Commissioner of small debts, for the County wherein such fines or forfeitures shall or may be incurred, on the oath of any one or more credible witness or witnesses; and, (where

not otherwise appropriated by this Act,) shall be expended by the Commissioner of the district, and in the precinct where such fines or forfeitures may have been incurred; and in the event of no goods and chattels being found whereon to levy, then the said Justice, or Commissioner shall and may commit the party or parties delinquent, to the common jail of the County for the respective periods hereinafter mentioned; that is to say: where the penalty shall not exceed the sum of five shillings, for a space not exceeding ten days; and where the penalty shall be above five shillings and shall not exceed twenty shillings, for a period not exceeding fourteen days; and where the penalty shall be above twenty shillings, and shall not exceed forty shillings, for a period not exceeding twenty-one days; and where the penalty shall be above forty shillings, and shall not exceed five pounds, for a period not exceeding sixty days.

L. In the event of any Commissioner, or overseer, who may prosecute for any penalty or offence under the provisions of this Act, becoming nonsuit, and it shall be certified by the Justice of the Peace, or Commissioner of small debts, before whom such case shall have been heard and determined, or other Court which shall finally decide the same, that such Commissioner or overseer had just and reasonable grounds of action, then, and in such case, said Justice of the Peace, Commissioner of small debts, or other Court as aforesaid, shall make out a certified statement of the costs of such action, which certified statement shall be delivered to the Clerk of Her Majesty's Executive Council, and the amount so certified, after being approved of by the Administrator of the Government for the time being, in Council, shall be paid to the Commissioner or overseer claiming the same, by the Treasurer of this Island.

Mode of proceeding when Commissioner or overseer may be nonsuited, &c.

Costs of nonsuit to be paid by treasurer.

SCHEDULES referred to in this Act.

SCHEDULE (A.)

DISTRICTS.

NO.	PRINCE COUNTY.
1.	To comprise townships Nos. 1, 2 and 3.
2.	‘ ‘ Nos. 4, 5 and 6.
3.	‘ ‘ Nos. 7, 8 and 9.
4.	‘ ‘ Nos. 10, 11 and 12.

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| No. 5. | To comprise townships | Nos. 15 and 16 |
| 6. | ‘ ‘ | Nos. 17 and 19 and the line road between 19 and 25. |
| 7. | ‘ ‘ | No. 18 and Princetown Royalty. |
| 8. | ‘ ‘ | Nos. 25 and 26. |
| 9. | ‘ ‘ | Nos. 27 and 28. |
| 10. | ‘ ‘ | Nos. 13 and 14. |
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QUEEN'S COUNTY.

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| 1. | To comprise township | No. 20 and all that portion of Township No. 21 lying to the north of the Princetown Road. |
| 2. | ‘ ‘ | Nos. 22, 67 and all that portion of Princetown Road which leads through Lot 21, and so much of Lot 21 as lies to the south of the Princetown Road. |
| 3. | ‘ ‘ | Nos. 23 and 24. |
| 4. | ‘ ‘ | Nos. 33 and 34. |
| 5. | ‘ ‘ | Nos. 29 and 30 and all that part of Lot 65 lying on the south side of the Elliot River. |
| 6. | ‘ ‘ | No. 31 and all such part of Lot 32 as does not lie to the eastward of the north or York River, and all that part of Lot 65, lying on the north side of the Elliot River. |
| 7. | ‘ ‘ | Those portions of 35, 36 and 37 on the north side of the Hillsborough. |
| 8. | ‘ ‘ | No. 48 and those portions of 35, 36 and 37 on the south side of the Hillsborough. |
| 9. | ‘ ‘ | Nos. 49 and 50. |
| 10. | ‘ ‘ | Nos. 57 and 58. |
| 11. | ‘ ‘ | Nos. 60 and 62. |
| 12. | To comprise the | Royalty of Charlottetown, Poplar Island bridge and all that part of Township No. 32 which lies to the eastward of the north or York River. |

No. KING'S COUNTY.

1. To comprise townships Nos. 38, 39 and 40 west of Morell River.
2. ' ' Nos. 41, 40 and 39 east of Morell River and St. Peter's Harbor mouth, and Morell bridge.
3. ' ' Nos. 42 and 43, including the division lineroad between 43 and 44.
4. ' ' Nos. 44 and 45.
5. ' ' Nos. 46 and 47.
6. ' ' Nos. 56 and 55 north of Grand River and Grand River bridge.
7. ' ' Nos. 55 south of Grand River, 53 north of Cardigan River and south of the Brudenell and 54.
8. ' ' Nos. 52, 51 and 66.
9. ' ' Nos. 59 and 61 and Montague bridge.
10. ' ' Nos. 63 and 64.
11. To comprise Georgetown and Royalty, and the Common thereof, and the reserved land adjoining the said Royalty, and all that part of Township 53 lying south of the Cardigan River and north of the Brudenell River.

SCHEDULE (B.)

List of persons who have performed or commuted their statute labor for the year 186 under *A. B.*, Overseer, for County (or who have paid their city tax to *A. B.*, Collector.)

Persons' Names.	Place of Residence	Age.	Commutation Money.
Examples, viz:			
Andrew Angle,	Township No. 21	27	—
Matthew Snooks,	" "	50	—
Samuel Brag, junr.	" "	19	—
Walter Willowby,	" "	57	Paid.
James Milway Boxer	Township No. 22	48	Paid.
Mark Rattlesnake,			
(senior.)	" "	20	—
Cicero Singleton,	" "		—
Schoolmaster, exempt.			
and so on, (as the case may be.)			

A. B., Overseer.

N. B.—The list to be written on one side only of the sheet, and to be on paper, as near as may be, of not less than thirteen inches deep nor less than eight inches wide.

SCHEDULE (C.)

Form of oath to be made by overseers of statute labor, and City collector, and attached to their returns.

I, *A. B.*, do swear * that the return now made by me contains a correct account of the receipt and expenditure of all moneys received by me as commutation of statute labor, within the precinct for which I have been appointed, during the current year, and * that the foregoing (or annexed) list of men's names, and residences, contains, as far as I can ascertain, and according to the best of my information and belief, the names and residences of all persons liable to perform statute labor in my precinct, (or liable to pay City tax in lieu of statute labor) as well as of those who, by some Act of Assembly, are especially excused or privileged therefrom.

A. B., Overseer,

or

City Collector.

Sworn before me this day of 186

N. B.—When the above oath is taken by the City collector, the words between asterisks (*) will be left out.

SCHEDULE (D.)

Form of summons.

County.

By Esquire, one of her Majesty's Justices of the Peace for the said County, (or Commissioner of small debts, as the case may be.)

You are hereby required to be and appear personally before me, at on the day of next, at the hour of o'clock, then and there to answer *A. B.*, wherefore [here insert the cause of action arising under said recited Act] according to the terms of the Act of the General Assembly in such case made and provided.

Given under my hand and seal the day of 18

SCHEDULE (E.)

Form of oath to be made by the Commissioner of Highways, and attached to his return.

I, *A. B.*, do swear, that the return now made by me is just and true, and contains a correct account of the receipt and expenditure of all moneys received and expended under my direction and superintendence, as Commissioner of highways, within the district for which I am Commissioner, during the current year, as I verily believe; and I do further swear, that

I have, during that time, faithfully discharged the several duties pertaining to the office of Commissioner of highways, as prescribed by law, according to the best of my knowledge, skill and ability. So help me God.

A. B., Commissioner.

Sworn before me, this day of 18
C. D., J. P.

SCHEDULE (F.)

NUMBER 1.

Certificate of overseer to be granted to every person of the age of twenty years, or upwards, who shall have performed his statute labor.

Township No. 33, (or as the case may be,) or town,
or town royalty, 186 (or as the case
may be.)

I certify that Peter Styles, junior, (or as the case may be) hath duly performed his statute labor for this precinct, (or town) for the year ending the day of one
thousand eight hundred and sixty (as the case may be.)

A. B., Overseer of Roads.

NUMBER 2.

Certificate of overseer to be granted to every person of the age of twenty years or upwards, who shall have paid his commutation money.

Township No. 65 (or as the case may be,) or, town,
or town royalty, 186 (or as the case may be.)

I certify that Peter Styles, junior, (or as the case may be) hath duly paid his commutation money, for his statute labor, for this precinct (or town,) for the year ending the day
of one thousand eight hundred and sixty (as the
case may be.)

A. B., Overseer of Roads.

NUMBER 3.

Certificate of City Collector to be granted to every person of the age of twenty years, and upwards, who shall have paid his City tax.

I certify that John Doe, junior, (as the case may be,) hath duly paid his city tax for the city of Charlottetown for the year ending the day of one thousand eight hundred
and sixty (as the case may be.)

A. B., City Collector.

[N. B.—The year in the body of the certificate, and the christian name or names and surname of the person mentioned, and whether senior or junior, to be written in full; and if two or more persons of the same name, not being father or son, residing in the same town or precinct, some distinguishing character or style to be added.]

CAP. III.

An Act to continue the several Acts therein mentioned.

[Passed April 17, 1862.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, that

Continues Acts
of 3 Vic. c. 12,

An Act made and passed in the third year of the reign of her present Majesty, chapter twelve, intituled "An Act to regulate the floating of logs, scantling, deals and other kinds of wood down the rivers and lesser streams in this Island;"

6 Vic. c. 9,

An Act passed in the sixth year of her present Majesty's reign, chapter nine, intituled "An Act to amend the Act regulating the floating of logs, scantling, deals and other kinds of wood down the rivers and lesser streams in this Island, and for other purposes therein mentioned;" and

and 15 Vic. c.
39, for 10 years.

An Act passed in the fifteenth year of the reign of her present Majesty, chapter thirty-nine, intituled "An Act to incorporate the Grand division and subordinate divisions of the order of the Sons of Temperance, in Prince Edward Island;" and every matter, clause and thing in the said hereinbefore recited Acts, respectively, shall be, and the same are hereby continued and shall remain in force for ten years from the passing hereof, and from thence to the end of the then next session of the General Assembly, and no longer.

CAP. IV.

An Act to give effect to the report of the Commissioners on the land question.

[Passed April 17, 1862.]

* * This Act was passed with a suspending clause, but not having as yet received the Royal allowance, it is deemed inexpedient to reprint it in this edition.

CAP. V.

19 Vic. cap. 2.
23 Vic. cap. 10.

An Act to further alter and amend the laws regulating the sale, by license, of spirituous liquors.

[Passed April 17, 1862.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, as follows:

I. Every person applying for a renewal of his or her tavern license, or license to retail spirituous liquors, whether in the city of Charlottetown, or elsewhere in this Island, shall, before the renewal of any such license be granted, procure and deposit, at the Colonial Secretary's office, a certificate signed, if in Charlottetown, by any two magistrates or common councillors therein; and if in the country, by any two out of the four magistrates residing nearest to the applicant's place of residence, setting forth that to the best of their knowledge and belief the house of such person so requiring a renewal of his or her license, has, up to the time of applying for such renewal, been conducted in an orderly manner and in all respects in accordance with the provisions of the laws now in force relating to the granting of such licenses.

Conditions on which tavern licenses are to be renewed.

II. It shall not be lawful for the City Council of the city of Charlottetown, hereafter to grant a license to any person to keep a tavern, or to sell or retail spirituous liquors, unless in addition to the certificates at present required by law, previous to such license being obtained, the granting of the license applied for shall have been first sanctioned and approved of by a majority of the City Council.

Conditions on which tavern licenses for Charlottetown are to be granted.

III. And whereas it frequently happens that many persons have by means of excessive drunkenness and habitual intoxication, impaired their mental faculties, and in a great measure lost their self control, and have become incapable of managing their own affairs, thereby entailing ruin on their families and great loss of property;

IV. Be it therefore enacted, that in any such case, as last aforesaid, it shall be lawful for any three persons well acquainted with the character and circumstances of any such person so given to excessive use of intoxicating liquors, whether they may be related to him by consanguinity or otherwise, to petition the Chancellor or Master of the Rolls, of this Island, stating the character of such person, his or her intemperate habits, means and property, so far as they know, and also his or her family, and other circumstances, and to verify the said petition by affidavit sworn before any master in Chancery.

In the case of habitual drunkards, application may be made to chancellor, by petition, &c.

V. It shall be lawful for the said Chancellor or Master of the Rolls, upon reading such petition as aforesaid, if he shall deem it advisable, to issue a writ in the nature of a writ *de lunatico inquirendo*, directed to the Sheriff of the County in which such intemperate person resides, directing him to summon a jury of twelve persons from the list of special jurors for the said County, returnable at a certain time and place, of which the said Sheriff shall give the intemperate person, and also the said petitioners, at least four days' notice in writing, and at the time and place so specified the said Sheriff shall

Chancellor, &c. may issue writ, &c., directed to the Sheriff, &c.

Mode of procedure under such writ.

hold a Court, the said jury shall be sworn by the Sheriff, on oath, in the form prescribed in the schedule to this Act annexed marked (A); the said court and jury shall then and there inquire into the said case, the said intemperate person, and all witnesses on both sides being examined on oath, to be administered by the Sheriff; and if the jury shall agree and be unanimous, they shall sign an inquisition or verdict, which shall be returned within ten days into the office of the Registrar of the Court of Chancery.

When a committee of the person and estate of habitual drunkard may be appointed.

VI. If upon the return of the inquisition the intemperate person is thereby found to be a person of habitual intoxication, incapable of managing his own affairs, the Chancellor or Master of the Rolls shall appoint one or two competent persons a committee of the person and estate of such intemperate person, such Committee to stand in the same relation, be invested with all the powers, and be subject to the same control in all respects as a committee of a lunatic's estate and person, lawfully constituted, and shall give like security in the discretion of the Chancellor or Master of the Rolls, and shall be liable to be removed in like manner.

Commission of intemperance may be superseded.

VII. Any such commission of intemperance may be superseded, either for a time, or *in toto*, at any time, on application, by petition, to the Chancellor or Master of the rolls, and on sufficient proof in his discretion according to the practice in cases of lunacy.

Limitation of fees.

VIII. The whole fees payable to the Sheriff, in every such case so tried by him, shall not exceed thirty shillings, and the jury fees shall not exceed twenty-four shillings, to be paid by the petitioning parties, or out of the lunatic's estate, as the Master of the Rolls may order and direct; and no further or other fees shall be payable to or chargeable by any person, in respect of the said commission, except to witnesses, who shall be allowed and paid by the party on whose behalf they shall be subpoenaed, at the same rate as witnesses are paid in the Supreme Court, and they shall be liable to the like penalties for not obeying such subpoenas as the sheriff shall issue under his seal of office.

False swearing, perjury, &c., penalty, &c.

IX. If any person shall wilfully, falsely and corruptly take any of the oaths appointed and required by any of the provisions of this Act, or of any other Act now in force regulating or relating to the sale by license of spirituous liquors, and be therefor lawfully convicted by indictment or information, every such person so offending shall be guilty of wilful and corrupt perjury, and shall for every such offence incur and suffer such penalties, forfeitures and disabilities as persons convicted of wilful and corrupt perjury are or may be liable to.

X. The term "two of the neighboring magistrates," made use of in the second section of the Act twenty-third Victoria, chapter twelve, and also the same term where made use of in other parts of the same Act, or in any other of the Acts in force regulating or relating to the sale by license of spirituous liquors, shall be construed and held to mean any two of the nearest four Magistrates or Justices of the Peace.

Meaning of the term "two of the neighboring Magistrates."

XI. The words "fermented or distilled spirituous liquors" or "distilled spirituous liquors," or spirituous liquors," wherever the same, or either of them, occur in this or any other Act relating to or regulating the sale by license of spirituous liquors, shall be construed to mean and include wine, rum, gin, brandy, whiskey and all compounds of the same of which alcohol shall be an ingredient, and also malt liquors, ale, porter and lager beer.

Meaning of the words "distilled spirituous liquors," &c.

XII. The certificate marked (C), referred to in the first section of the Act of the twenty-third Victoria, chapter twelve, shall, when produced to the Colonial Secretary, be accompanied by an affidavit in verification thereof made by the applicant to the following effect :

Certificate under 1st sec. 23d Vic. cap. 12, to be verified by affidavit, &c.

"I, *A. B.*, do swear, that the above certificate (or certificate annexed, as the case may be) is signed by a majority of the householders resident in and entitled to vote for the trustees of schools for the school district within which the inn or tavern for which I desire a license is situate. So help me God.

Form of affidavit.

A. B.

Sworn to this day of *A. D.*, 18
before me,

}

C. D.,

Justice of the Peace for County.

Which affidavit shall be sworn to before, and attested by a Justice of the Peace for the County.

Affidavit how to be attested.

XIII. No intoxicating spirituous or other liquors shall be sold or given by any person or persons, whomsoever, to any Indian, without a certificate from a clergyman or medical man, under a penalty of twenty shillings for every offence; which may be sued for and recovered by any party before any one or more of Her Majesty's Justices of the Peace; one half of the fine, when recovered, to be paid to the informer, and the other half to be paid into the treasury of this Island for the public use.

Restrictions on selling liquor to Indians.

Appropriation thereof.

XIV. That if a petition or memorial shall at any time be sent in to the Lieutenant Governor, in Council, from parties alleging themselves to be a majority of any school district, accompanied by an affidavit giving reasonable proof of the

Mode of application to have license improperly obtained annulled, &c.

truth of such allegation, complaining that a license to keep an inn or tavern, or retail spirituous liquors, has been improperly, and contrary to their desire, granted, on the recommendation or certificate of other parties who, although they may have represented themselves to be, in fact are not the majority of the householders resident in such district entitled to vote for trustees, then the Lieutenant Governor, in Council, after due inquiry made, and notice of such complaint to the party holding the license, shall, if it be clearly found that the certificate or recommendation upon which the license was granted, was incorrect or untrue, or not signed by the true majority of the district, have power to annul or suspend the license, and with or without a return of any, or a part of the license duty paid, as the Lieutenant Governor, in Council, on consideration of the circumstances, shall deem just and right.

Laws inconsistent with this Act hereby repealed.

XV. So much and such parts of the Laws now in force regulating the sale by license of spirituous liquors, as are contrary to or inconsistent with this Act, shall be and the same are hereby repealed.

SCHEDULE (A.)

Form of oath to be taken by Juryman on inquiry under this Act.

I will well and truly hear the evidence to be given touching the subject matter of this inquiry, and a true verdict give according to the best of my discernment and skill, and without fear, favor or affection.

So help me God.

CAP. VI.

23 Vic., c. 16.

An Act to alter and amend the Act relating to the recovery of small debts.

[Passed April 17, 1862.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:

Repeals secs. 39, 41, 42, 69, 70, 71, 72 and 73, and all other parts of 23rd Victoria, cap. 16, prohibiting arrest or imprisonment of any person where the amount does not exceed £10.

I. From and after the passing of this Act, the thirty-ninth, forty-first, forty-second, sixty-ninth, seventieth, seventy-first, seventy-second and seventy-third sections, and all such other parts of the Act of the twenty-third year of the reign of her present Majesty, chapter sixteen, intituled "An Act relating to the recovery of small debts, and to repeal certain Acts therein mentioned," as prohibit the arrest or imprisonment of any person or persons on *mesne* or final process, issued out of

any Court constituted under the said recited Act, unless the sum for which any such person should be so arrested or imprisoned, shall amount in the whole, to more than ten pounds, shall be, and the same are hereby severally and respectively repealed.

II. All suits, actions and proceedings heretofore had, and now pending in any Court, constituted under the said recited Act, or hereafter to be had or taken under the said Act, or this Act, with reference to sums amounting to ten pounds or under, whether on *mesne* or final process, or otherwise, shall be prosecuted to final settlement in the same manner in all respects, as prescribed by the said recited Act, in cases where the sum amounts to more than ten pounds, any thing in the said recited Act, to the contrary notwithstanding.

All suits for sums not exceeding £10 to be sued for in same manner as amounts exceeding £10.

III. Where sufficient goods and chattels whereon to levy, as pointed out by the thirty-eighth section of the said recited Act, shall not be found, then, and in such case only, the said constable in said section mentioned, is hereby authorized and required to arrest the body of the debtor, therein referred to, and take him to the common jail of the county wherein he shall be arrested, there to remain, if the amount of levy shall not exceed forty shillings, for the space of two months; and if above forty shillings, and not exceeding three pounds, for the space of three months; and if above three pounds, and not exceeding five pounds, for the space of four months; and if above five pounds, and not exceeding eight pounds, for the space of six months; and if above eight pounds, and not exceeding twelve pounds, for the space of eight months; and if above twelve pounds, and not exceeding fourteen pounds, for the space of nine months; and if above fourteen pounds, and not exceeding sixteen pounds, for the space of ten months; and if above sixteen pounds, and not exceeding eighteen pounds, for the space of eleven months; and if above eighteen pounds, for the space of twelve months, (each of said imprisonments to be computed from the day on which the debtor was first committed); and after any of the said imprisonments, in cases where the debt does not exceed ten pounds, the debtor shall be freed and discharged from such imprisonment, and also altogether from the debt and costs for which it has taken place; and in cases where the debt exceeds ten pounds, then after such imprisonment as aforesaid, the debtor shall be freed and discharged therefrom, and from ten pounds of the debt for which such imprisonment has taken place; but, nevertheless, the goods and chattels of such debtor, whether in present possession or acquired after his discharge from imprisonment, shall still remain liable to be taken in execution for the balance or surplus of the debt over the sum of ten pounds so discharged, as aforesaid, and costs; and the

Body of debtor may be arrested &c., in certain cases.

After such imprisonment debtor freed from the whole debt and costs in certain cases.

Person of debtor to be free from arrest in such cases.

plaintiff in any such last mentioned case shall be entitled, at any time thereafter, to take out execution or *alias* executions against the goods and chattels of the defendant, for the amount of such balance or surplus, and costs, so always that the person of any such debtor or defendant, so having suffered the imprisonment commensurate with his debt, as aforesaid, shall be freed and discharged from arrest upon the judgment under which he has suffered imprisonment, or in any action or proceeding upon such judgment.

Mode of proceeding when plaintiff's claim does not exceed £10, and defendant does not tender bail, &c.

IV. If the person arrested on a *capias* for the reason and in manner prescribed by the sixty-eighth section of the said recited Act, do not tender bail as therein pointed out, and the amount of the plaintiff's claim do not exceed ten pounds, it shall be lawful for the Justice or Commissioner who issued the *capias*, as therein mentioned, or one of the Commissioners of the Court to which the clerk issuing the *capias* belongs, forthwith to try the cause, give judgment, and issue execution in the form marked (I), to the said recited Act, annexed, *mutatis mutandis*, — the defendant being retained in custody under the original *capias*, until it be ascertained whether he has sufficient goods and chattels whereon to levy the said execution, unless he shall give good and sufficient bail and security, to the satisfaction of the Justice or Commissioner, that he will within a certain time thereafter, not exceeding twenty-one days, to be fixed by the said Justice or Commissioner, be forthcoming to meet such execution, in case no such goods and chattels be found; if the amount of the plaintiff's claim shall be above ten pounds, it shall be lawful for the Justice of the Peace who issued the *capias*, together with another Justice of the Peace, acting in and for the same County, or for two Commissioners, forthwith, to hear and determine the said cause, and to issue execution, in the form hereinbefore referred to, and to commit the defendant to the common jail of the County, unless he shall give sufficient bail and security that he will be forthcoming to answer the said execution, in the same manner as next hereinbefore pointed out, where the debt is under ten pounds, until it be ascertained whether he has sufficient goods and chattels whereon to levy the same, according to the mode pointed out by the said recited Act, or this Act.

Mode of procedure when claim exceeds £10.

Duties of bailiffs &c., in levying under execution.

V. Any constable or bailiff who shall be entrusted with any execution to be issued in either of the above cases, under the provisions of the last preceding clause, is hereby authorized and required, after having given at least six days' notice, in at least three public places, to levy by distress and public sale of the goods and chattels of the debtor, the sum of money mentioned in the writ of execution, with poundage and other fees, as allowed by the said recited Act, or this Act in such cases; and if there be sufficient goods and chattels found whereon to

levy the said sum and charges, then the said constable or bailiff shall immediately, or at least within three days after having ascertained the same, notify the same in writing to the officer or officers issuing the writ, who shall thereupon immediately direct the jailer, in whose custody the said debtor may be, to discharge him forthwith from confinement; and such debtor shall so be immediately discharged; or in case he has given bail or security for his appearance, the same shall be acquitted and discharged from liability; and if there be not sufficient goods and chattels whereon to levy, then and in such case, the said constable or bailiff, after having made due note thereof in writing, on the writ of execution, shall, within three days after he shall have ascertained the same, lodge the said writ of execution with the keeper of the common jail, to which the debtor may have been committed as aforesaid; or if he shall have given bail or security, shall take the body of the said debtor, and commit him to the common jail of the County; and the said debtor in such case, shall remain in the said jail, under such execution, for such space of time in proportion to the amount of the levy, as is prescribed hereinbefore in the third section of this Act, with reference to persons imprisoned under execution issued upon any judgment recovered in the regular way before any Court of commissioners constituted under the said recited Act; and all subsequent proceedings in relation to such debtor, shall be governed by and conducted according to the provisions of the said third section of this Act.

Jailer may discharge debtor in certain cases.

Terms of imprisonment.

VI. Provided always, That if the said defendant shall, upon his appearance upon any *capias*, deposit with the justice, commissioner, or clerk before whom he is brought, the amount of the sum sworn to, with a reasonable amount of costs, he shall not be required to enter into recognizance, as above stated, but the suit shall notwithstanding be heard and determined in the usual way, and the money deposited shall abide the event of the trial; and if any defendant against whom any such judgment shall be given, as hereinbefore in the fourth clause of this Act mentioned, shall appear to the justice or justices, commissioner or commissioners, who shall have given the same, to be deserving of indulgence, then and in such case the said justice or justices, commissioner or commissioners, are hereby empowered to grant such time for the payment of the judgment as shall seem reasonable: provided the time so granted shall not exceed two months where the judgment is not above five pounds, and three months where the judgment exceeds five pounds, said indulgence to be computed from the day on which judgment is given; and provided also that the said defendant, so indulged, shall give sufficient security by recognizance, in the form prescribed in the schedule to the

Defendant depositing amount sworn to not required to enter into recognizance, &c.

Defendant in case of indulgence to give security, &c.

said Act annexed, marked (D), to pay the amount of the judgment within the time limited therefor.

Gives right of appeal in certain cases.

VII. The judgment of the said justices or commissioners, upon such *capias* suit, may be appealed from, on the party appellant entering into the security, and complying with the other conditions of the said recited Act in cases of appeal.

Defendant, how discharged from custody.

VIII. And whereas it is necessary, in the last mentioned case, to make provision for the custody of the defendant, after judgment shall have been given, until the expiration of the time allowed for perfecting appeals: Be it therefore enacted, that the defendant shall be discharged from custody upon entering into a recognizance, in the form in the schedule to the said recited Act annexed, marked (W.) with two sufficient sureties; and in case he shall refuse to give such security, execution shall issue for the amount of the judgment and costs, as hereinbefore pointed out.

Benefit of insolvent Act granted to parties in custody under small debt Act in certain cases.

IX. And whereas it is deemed expedient to extend the benefit of the provisions of the Act of the fourteenth Victoria, chapter two, relating to the relief of insolvent debtors, to all persons confined within any jail in this Island, for any debt, damages or costs, and whether on *mesne* or final process issued out of any court constituted under said recited small debt Act: Be it therefore enacted, that the proviso contained in the latter part of section seventy-seven, of the said recited small debt Act, be and the same is hereby repealed; and in future it shall be lawful for the insolvent commissioners, appointed under the said recited small debt Act, and they are hereby required to grant insolvent relief to any person confined in any jail in this Island by virtue of any *capias*, execution or other process issued from any Court, or by any officer or other person authorized by the said recited small debt Act for that purpose: provided it shall be made to appear to the satisfaction of the said insolvent commissioners that the person so applying for insolvent relief has not, since the contracting of the debt for which he is so imprisoned, assigned, or otherwise made over or conveyed away any property, real or personal, with a view to defeat the detaining creditor's claim: and provided further, that the said insolvent commissioners shall deem such applicant for such relief, in all other respects entitled thereto under the provisions of the said insolvent debtor Act, and the said recited small debt Act, so far as the same are consistent with the provisions of this Act.

Persons imprisoned under small debt Act only, to be fed by government in certain cases.

X. No person imprisoned under *capias* or execution, issued under the said recited small debt Act, shall under any circumstances be fed or supported in prison at the expense of the Government, unless under a special order granted in that behalf.

XI. So much and such parts of said recited small debt Act as are contrary to or inconsistent with any of the provisions of this Act, shall be, and the same are hereby repealed.

All clauses in 23 Vic. cap. 16, inconsistent with this Act, repealed.

CAP. VII.

An Act for raising a revenue.

[Passed April 17, 1862.]

* * This Act further continued the Act 19th Vic. cap. 1, with amendments, until the 1st day of May, 1863, but as it has been printed in the sessional Acts of the year, it is deemed unnecessary to reprint it in this edition.

CAP. VIII.

An Act for the prevention and punishment of vice and immorality in the city of Charlottetown.

[Passed April 17, 1862.]

☞ This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

CAP. IX.

An Act relating to electric telegraph communication with this Island.

[Passed April 17, 1862.]

WHEREAS by an Act of the General Assembly of this Island, passed in the twentieth year of the reign of her present Majesty, it was enacted, that so long during the term of ten years, from the passing of the said recited Act, as the "New York, Newfoundland and London Telegraph Company," shall maintain a regular telegraph communication between this Island and the continent of America and Newfoundland, and shall likewise, during the said period, at the cost and charges of the said company, erect and maintain telegraph offices and stations at either end of the electric cable connecting the Island with the continent of America, that is say, at Cape Traverse and Cape Tormentine, respectively; and shall likewise provide and maintain at the said stations, for the purpose of transmitting intelligence from and to this Island, and to the Post Office in Charlottetown, at the same rate or charges as at the time of the passing of the said recited Act, were received by the said company for the transmission of messages, there shall be paid to the said company from the public treasury of this Island, yearly, and every year during the said period of ten years, the sum of three hundred pounds of lawful current money of this Island: and whereas the said

Recital.

Further recital.

company has failed to maintain regular telegraph communication between this Island and the continent of America: and whereas the electric cable connecting this Island with the continent of America is, and for several months now last past; has been defective, and no telegraph communication has in consequence been maintained. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly:

Notice to be published in *Royal Gazette* requiring company to establish and maintain telegraph communication, &c.

I. That the Lieutenant Governor and Council of this Island shall be authorized, immediately after the passing of this Act, to publish in the *Royal Gazette* of this Island, a notice directed to the said company, and requiring that the said company shall on or before the first day of July next, establish and maintain a regular telegraph communication between this Island and the continent of America and Newfoundland, and also erect and maintain telegraph offices and stations as set forth in and required by the hereinbefore recited Act: provided that on sufficient cause being adduced to His Excellency the Lieutenant Governor, in Council, by the said company, it shall be lawful for his Excellency, by and with the consent of the Executive Council, to extend the said time for any period not exceeding one month next after the said first day of July.

Company neglecting to comply with terms of said notice &c., Lt. Governor authorized to contract with any other persons for the laying a submarine cable, &c.

II. That in case the said company shall neglect to comply with the terms of said notice, so to be issued as aforesaid, and shall not maintain regular telegraphic communication between this Island and the continent of America and Newfoundland, or erect and maintain telegraphic offices and stations, in the terms of the said recited Act, the Lieutenant Governor, or the Administrator of the Government for the time being, by and with the consent of the Executive Council of this Island, shall be empowered to contract with any person or persons willing to become bound for the laying a submarine cable between this Island and the Province of New Brunswick or Nova Scotia, and maintaining, during a period of twenty years, regular telegraphic communication between Charlottetown, in this Island, and the principal cities on the continent of America, and for maintaining during the winter season, telegraph offices or stations at Capes Traverse and Tormentine, and shall in such contract provide that there shall be paid to such person or persons willing to enter into such contract, and to maintain telegraphic communication as aforesaid, yearly and every year, during the said period of twenty years, the sum of three hundred pounds, by half yearly payments, to be made by warrant on the treasury.

Telegraph company neglecting, after such

III. That in the event of the "New York, Newfoundland and London Telegraph Company," after such notice in the *Royal Gazette* as aforesaid, shall have been given, refusing or

neglecting to maintain a regular telegraph communication as required by the said Act of twentieth Victoria, all rights, privileges and profits granted by the said Act, as well as all rights, privileges, profits and monopolies granted or allowed by the Act seventeenth Victoria, chapter four, to the said "New York, Newfoundland and London Telegraph Company," are hereby cancelled and revoked.

notice, to maintain telegraph communication to forfeit all rights, &c.

C A P. X.

An Act to repeal the Act made and passed in the twenty-fourth year of the reign of her present Majesty, chapter nine, and to further amend the Act for the transfer of the inland posts within Prince Edward Island.

[Passed April 17, 1862.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, as follows :

I. That an Act made and passed in the twenty-fourth year of the reign of her present Majesty, chapter nine, be, and the same is hereby repealed.

Repeals 24 Vic. cap. 9.

II. That after the expiration of one month from the passing of this Act, and its publication in the *Royal Gazette* newspaper of this Island, all letters and packets which shall be posted in the different Post Offices within this Island, and addressed to any post office within this Island, shall be prepaid by stamps.

Postage on letters, &c., to be prepaid by stamps.

III. That if any letters or packets shall be posted in any post office within this Island, and addressed to any other post office within this Island, and the full rate or rates of postage with which such letters or packets may be chargeable, shall not be prepaid, or shall be paid but in part, such letters and packets shall, notwithstanding such nonpayment or part payment of the postage, be duly forwarded to their destination, and shall be chargeable with the amount of postage due thereon, and in addition thereto, with a fine of two pence of lawful money of this Island, for each letter or packet, the postage payable on which shall not have been paid, or shall have been paid but in part, which said fines, and all moneys arising therefrom, shall be collected and retained, to and for the use of the Government of this Island.

Consequence of not prepaying full postage on letters, &c.

IV. The Governor in Council shall have full power and authority to enter into arrangements with the Governments of Canada, Nova Scotia and New Brunswick, or either of them, for the adoption and carrying out a system of reciprocal compulsory prepayment, by stamps of letters, packets and parcels,

Governor, &c. to make arrangements for the compulsory prepayment by stamps, of letters, &c.

between this Island and the Provinces of Canada, Nova Scotia and New Brunswick.

Consequence of not prepaying full postage by stamps, on letters, &c.

V. If after such arrangements as aforesaid shall have been entered into, any letters or packets shall be received in any post office within this Island, from any post office in either of the Colonies of Canada, Nova Scotia, or New Brunswick, and the full rate or rates of postage with which such letters or packets may be chargeable, shall not be prepaid, or shall be paid but in part, such letters and packets shall, notwithstanding such nonpayment, or part payment of the postage, be chargeable with the amount of postage due thereon; and in addition thereto, with a fine of three pence of lawful money of this Island, for each letter or packet, the postage payable on which shall not have been paid, or shall have been paid but in part, which said fines, and all moneys arising therefrom, shall be collected and retained to, and for the use of the Government of this Island.

Application of fines.

Governor, &c. authorized to adopt a system for the transmission of small parcels by mail.

VI. The Governor in Council shall have full power and authority to adopt and carry out a system for the transmission of small parcels by mail, through the post offices within this Island, and to fix and regulate the rates and charges at which such parcels shall be conveyed and carried.

CAP. XI.

An Act to authorize the Government to prohibit the exportation of military or naval stores and provisions.

[Passed April 17, 1862.]

Recital.

WHEREAS a despatch has been received by His Excellency the Lieutenant Governor, from Her Majesty's principal Secretary of State for the Colonies, requesting application to be made to the Legislature of this Island, to pass a law to prevent the exportation of arms and military stores, in case circumstances should render such a measure necessary: and whereas it is deemed advisable to pass such a law: Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows:

Authority to Governor in Council to prohibit exportation or to be carried coastwise, arms, ammunition, &c.

I. It shall be lawful for the Lieutenant Governor of this Island, with the advice and consent of Her Majesty's Executive Council, to prohibit, either to be exported or carried coastwise, arms, ammunition and gunpowder, military and naval stores, and any articles which the Lieutenant Governor shall judge capable of being converted into or made useful in increasing the quantity of military or naval stores, provisions or any sort of victual which may be used as food for man, by pub-

lishing a proclamation to that effect in the *Royal Gazette* newspaper of this Island.

II. If any person shall export or carry coastwise, load or put on board any ship, vessel or boat, any arms, ammunition and gunpowder, military and naval stores, or any articles which the Lieutenant Governor shall judge capable of being converted into or made useful in increasing the quantity of military or naval stores, provisions, or any sort of victual which might be used as food for man, with intent to export the same out of this Island, or to carry the same coastwise, after the publication of any such proclamation as aforesaid, then he shall, besides the forfeiture of the goods so prohibited to be exported or carried coastwise as aforesaid, forfeit and pay to Her Majesty a sum not exceeding fifty pounds, according to the judgment and discretion of the Court; to be recovered by bill, plaint or information in Her Majesty's Supreme Court of Judicature, and when recovered, to be paid into the Treasury of this Island for the use of her Majesty's Government thereof; and any of Her Majesty's Collectors of Impost or Controllers of the navigation laws, or other officer appointed to protect the revenue, shall have power, and they are hereby authorized to seize any such goods so put on board any ship, vessel or boat for exportation, or to be carried coastwise contrary to the provisions of this Act, and also the ship, vessel or boat in which the said goods are laden, and to sell the same, and to pay the balance into the treasury, deducting and retaining thereout, as a remuneration to himself, one third part of the proceeds thereof.

Penalty.

How recover-
able.

Appropriation
thereof.

CAP. XII.

An Act to facilitate the operation, in certain particulars, of the Award or Report made by certain Commissioners, to settle and adjust differences respecting some of the township lands of this Colony.

[Passed April 17, 1862.]

. This Act was passed with a suspending clause, but not having as yet received the Royal allowance, it is deemed inexpedient to reprint it in this edition.

CAP. XIII.

An Act relating to limited partnerships.

[Passed April 17, 1862.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:

Limited partnerships, for what purposes formed.

I. Limited partnerships for the transaction of all mercantile, mechanical, or manufacturing business, except banking or insurance, may be formed by two or more persons.

Of whom to consist.

II. Such partnerships may consist of two or more general partners, who shall be jointly and severally responsible, as partners now are by law, and also of any other persons who shall contribute to the common stock, a specific sum in actual cash payments as capital, who shall be called special partners, and shall not be personally liable for any debts of the partnership, except in the cases hereinafter mentioned.

What certificate to sign.

III. The persons forming such partnerships shall make and severally sign a certificate, which shall contain the name or firm of the partnership, the names and respective places of residence of the general and special partners, distinguishing the general from the special, the amount of capital each special partner has contributed, the general nature of the business to be transacted, and the time when the partnership is to commence and terminate.

When deemed to be formed.

IV. No such partnership shall be deemed to have been formed, until a certificate, made as aforesaid, shall be acknowledged by the partners before a Justice of the Peace, and registered in the office of the Prothonotary, or deputy Prothonotary of the Supreme Court for the County wherein their principal place of business shall be situate, in a book to be kept for that purpose, open to public inspection; and if the partnership shall have places of business situate in different Counties, a copy thereof, certified by the prothonotary, or deputy prothonotary for the County where registered, shall also be registered in such Counties; and if any false statement shall be made in such certificate, all the persons interested in the partnership shall be liable as general partners for all the engagements thereof.

What copy to be published and where.

V. The partners shall, for three months immediately following such registry, publish a copy of the certificate above mentioned, in the *Royal Gazette* newspaper of the said Island; if such publication be not so made, the partnership shall be deemed general.

Terms of constitution.

VI. Every such partnership shall be held to continue on the original terms, unless the partners, or any one of them, desire to be discharged from further liability, in which case a certificate shall be signed, acknowledge and registered, as in the first instance, declaring their withdrawal from the concern.

Liability of partners.

VII. The business of the partnership shall be conducted by the general partners, under such designation as they shall

adopt; and if the name of any special partner shall be used in such firm, with his consent or privity, or if he shall personally make any contract respecting the concerns of the partnership, with any person except the general partners, he shall be deemed and treated as a general partner.

VIII. During the continuance of any such partnership, no part of the capital stock thereof shall be withdrawn, nor any division of interest or profits be made, so as to reduce such capital stock below the sum stated in the certificate before mentioned; and if at any time during the continuance, or at the termination of the partnership, the assets shall not be sufficient to pay the partnership debts, then the special partners shall severally be responsible for all sums by them in any way received from such partnership, with interest thereon from the time when they were so withdrawn respectively.

Rights and responsibility of special partners

IX. No general assignment by such partnership in case of insolvency, or insufficiency of assets for the payment of their debts shall be valid, unless it shall provide for a distribution of the partnership property among all the creditors, in proportion to the amount of their several claims, and notice thereof to be given in the *Royal Gazette* newspaper of the said Island; and the creditors, within forty days after such publication, do not dissent therefrom, in writing; but debts due to Her Majesty shall first be paid or secured.

Assignment when allowed.

X. All suits respecting the business of such partnership shall be prosecuted by and against the general partners only, except in those cases where special partners shall be held severally responsible on account of any sums by them received from the common stock as aforesaid, or in which by the provisions of this Act special partnerships shall be deemed general.

Actions, by and against whom.

XI. No dissolution of such partnership shall take place, except by operation of law, unless a notice thereof shall be registered in the same manner as the original certificate, and unless such notice shall be published for six successive weeks in the *Royal Gazette* newspaper of the said Island.

Dissolution.

XII. In all cases not otherwise herein provided for, the members of limited partnerships shall be subject to all the liabilities, and entitled to all the rights of general partners.

Rights and liabilities,

XIII. A certificate of the dividend or interest, or profits made from any such partnership to the special partners, shall, as often as the same shall happen, be signed and sworn to by one or more of the general partners, setting forth the amount of the actual cash payments originally subscribed and paid by the special partners, and the dividend or profits and sums of

Dividends and profits.

money declared payable under such statement, to each of all the partners, which certificate shall be registered in the office of the prothonotary, or the deputy prothonotary for the County in which the general partners reside, or wherein the business is conducted, but no such dividend shall be declared for any period less than one year.

What deemed
evidence of money
received.

XIV. The amount of profits or dividends declared under the certificate mentioned in the last preceding section, shall be deemed to be *prima facie* evidence of the sums of money received by the parties for the purposes of the eighth section.

Fees of prothonotary.

XV. The prothonotary and deputy prothonotaries respectively, shall each be entitled to receive the sum of three shillings and six pence for registering every such certificate, and copy certificate, as hereinbefore mentioned, and the sum of one shilling for every notice of dissolution, as aforesaid, and no more.

CAP. XIV.

An Act for establishing the standard weight of grain and pulse, and for the appointment of officers for measuring and weighing the same.

[Passed April 17, 1862.]

It. Governor to
appoint measurers
and weighers
of grain, &c.

BE it enacted by the Lieutenant Governor, Council and Assembly, That it shall be lawful for the Lieutenant Governor for the time being, to appoint such persons throughout the Island as he may deem requisite, for the purpose of measuring and weighing all sorts of grain and pulse.

Standard
weight of grain
and pulse.

II. From and after the passing of this Act, the standard weight of each Winchester bushel of grain exposed for sale in this Island, shall be as follows: that is to say, wheat shall weigh fifty-eight pounds, rye shall weigh fifty-six pounds, indian corn shall weigh fifty-seven pounds, barley shall weigh forty-eight pounds, oats shall weigh thirty-six pounds, peas shall weigh sixty pounds, beans shall weigh sixty pounds; all such weights shall be avoirdupois, and all such grain and pulse as may be imported or brought to market for sale, shall, on request of the buyer or seller, be measured and weighed by the measurer and weigher, at the place where the same shall be brought for sale, and that the said weigher and measurer shall be allowed and paid one farthing per bushel, the one half by the buyer and the other half by the seller.

Duty of measurer
and weigher.

III. If any grain or pulse shall be imported or brought for sale within any port or place within this Island, which shall not be agreeable to the standard weight hereinbefore ap-

pointed for each sort of grain and pulse to weigh, respectively, it shall and may be lawful for the measurer and weigher, if required, either by the buyer or seller thereof, to add to each bushel a quantity sufficient to make the same weigh equal to the standard hereinbefore appointed for each particular sort; and if such grain or pulse shall weigh more than the standard weight hereinbefore appointed, it shall in like manner be lawful to deduct as much for each bushel as will make the same conformable to the said standard.

or when grain,
&c. is deficient
in weight.

IV. If any person so appointed and accepting the office of measurer and weigher as aforesaid, shall be guilty of any neglect or fraud in the execution of his office, he shall for each and every offence forfeit and pay a sum not exceeding five pounds, to be recovered before any one of Her Majesty's Justices of the Peace for the County where the offence shall have been committed; one half thereof to be paid to the person or persons who shall sue for the same, and the other half shall be paid into the treasury of this Island, and the person so offending shall be liable in damages to the party injured.

Penalty on
measurer and
weigher for
neglect of duty.

How recover-
able and ap-
plied.

V. This Act shall continue and be in force for the space of ten years, and from thence to the end of the then next session of the General Assembly, and no longer.

Continuance
of Act.

CAP. XV.

An Act to incorporate Victoria Lodge, No. 383, R. S., of Free and Accepted Masons of Charlottetown, in Prince Edward Island.

[Passed April 17, 1862.]

☞ This Act has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3, sec. 2.

CAP. XVI.

An Act to incorporate the Roman Catholic Bishop, in Charlottetown.

[Passed April 17, 1862.]

☞ This Act has been printed in the volume of private and local Acts, pursuant to the Act of 24 Vic., cap. 3, sec. 2.

CAP. XVII.

An Act to incorporate the minister and trustees of the Presbyterian Church, Bedeque.

[Passed April 17, 1862.]

☞ This Act has been printed in the volume of private and local Acts pursuant to Act 24th Vic. c. 3, sec. 2.

CAP. XVIII.

An Act to change the constitution of the Legislative Council, by rendering the same elective.

[Passed April 17, 1862.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, as follows:

No appointment to the Legislative Council to be made by Crown

I. After this Act shall receive Her Majesty's assent, no appointment shall be made to the Legislative Council of this Island, by the authority of the Crown.

When this Act assented to seats of all members of Legislative Council to become vacant, and writs to issue for election of Councillors.

II. The Lieutenant Governor in Council, immediately on receiving official notice of such assent, shall declare, by proclamation, this Act to be in force, and thereupon, the appointments of all persons then holding seats in the Legislative Council, to such seats shall determine, and their places become vacant, and writs shall be immediately issued for the election of members to serve in the Legislative Council, agreeably to this Act, in the form and manner used for the election of members to serve in the General Assembly.

Legislative Council, how to be constituted.

III. The Legislative Council shall be composed of thirteen members, to be elected in the proportion and in manner herein provided, that is to say: four members for Prince County, four members for Queen's County, four members for King's County, and one member for Charlottetown, and common and royalty thereof.

Counties to be divided into electoral districts.

IV. The several counties that return members to serve in the Legislative Council in this Island, shall be divided into electoral districts, and there shall be as many polling divisions in each of such districts, at or near which a poll may be conveniently held, as may be requisite for the purpose of polling in one day all the electors; and the poll, when a poll shall be required, shall be taken in the said polling divisions, at or near the places in each district, for that purpose herein-after named and appointed.

When a Poll required electors to poll in one day.

Electoral districts in Prince County.

V. The electoral districts in the several counties in this Island, shall be known and described as follows, that is to say, in the county of Prince County, the first district shall comprise and include the several townships following, that is to say, townships numbers, one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, and fifteen, and Savage island; and the second district shall comprise and include townships numbers sixteen, seventeen, eighteen, nineteen, twenty-five, twenty-six, twenty-seven, twenty-eight, Princetown and royalty, the several islands in Richmond bay, and Indian island; and that for the county of Queen's

County, the first district shall comprise and include townships numbers twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-nine, thirty, thirty-one, thirty-two, sixty-five and sixty-seven, Peter's island and St. Peter's island; the second district shall comprise and include townships numbers thirty-three, thirty-four, thirty-five, thirty-six, thirty-seven, forty-eight, forty-nine, fifty, fifty-seven, fifty-eight, sixty, and sixty-two, and Governor's island; and the third district shall comprise and include Charlottetown and the common and royalty thereof. And for the county of King's County, the first district shall comprise and include townships numbers thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-three, forty-four, forty-five, forty-six, forty-seven and fifty-six; and that the second district shall comprise and include townships numbers sixty-four, sixty-three, sixty-one, fifty-nine, sixty-six, fifty-one, fifty-two, fifty-three, fifty-four and fifty-five, Georgetown, the royalty, common and reserved land, Boughton Island, Panmure Island, and the several islands in the harbor of Murray harbor.

Electoral districts in Queens County.

Electoral districts in King's County.

VI. Each of the said electoral districts shall return two members to serve in the Legislative Council of this Island, save and except the district of Charlottetown, the common and royalty thereof, which shall return one member.

Two members for each district & one for Charlottetown.

VII. Every male person of the age of twenty-one years or upwards, who shall own a freehold or leasehold property, of the value of one hundred pounds currency, or who shall own lands partly freehold and partly leasehold, amounting together in value to one hundred pounds currency, and who shall have been in possession of the same for a period of at least twelve calendar months previous to the *teste* of the writ of election, shall be entitled to vote for a member to serve in the Legislative Council of this Island, and shall vote at the place or places at which he ordinarily votes at the election of a member or members of the House of Assembly, under and by virtue of the laws now in force relating to the election of members to serve in the General Assembly.

Elector's qualification and place of voting.

VIII. Every elector qualified to vote in the electoral district, under this Act, in which he resides, shall vote at any election in such district in the polling division in which he resides, and not elsewhere; and the oath of qualification to be administered to, and taken by every such resident elector, when required, shall be in the form following:

Resident elector to vote at polling division in which he resides.

I, A. B., do swear, that I am by law qualified to vote at this election for the electoral district of (as the case may be,) in the County of County, in the right of the property or title which have now been taken down in the poll book and read to me, and that I have not polled or

Form of qualification for resident elector.

given a vote for any candidate at this election within this or any other polling division, and that the place of my abode is at in the electoral district of County, (as the case may be,) and is, according to the best of my knowledge and belief within this polling division.

So help me God.

Elector not residing in district to vote in polling division where qualification situate.

IX. Every elector qualified to vote in any electoral district, in which he does not reside, shall vote in the polling division in which the property on which he claims to vote for such electoral district is situate, and not elsewhere; and the oath of qualification to be administered to and taken by every such nonresident elector, when required, shall be in the form following:

Form of qualification oath of nonresident elector.

I, *A. B.*, do swear, that I am by law qualified to vote at this election for the electoral district of County, (as the case may be,) in right of the property and title which have now been taken down in the poll book and read to me, and that according to the best of my knowledge and belief the said property lies in this polling division, and that I have not polled or given my vote for any candidate at this election, either in this polling division, or any other polling division in this electoral district, and that the place of my abode is not within this electoral district.

So help me God.

Present election laws for members of Assembly, &c., to apply to election of Legislative Councillors

X. The laws relating to the election of members of the House of Assembly, as far as regards the issue and return of writs of election, Sheriffs, returning officers, the powers and duties of the Sheriffs and returning officers, and of election and poll clerks, the administration of oaths to electors, the prevention or punishment of offences committed at elections, or with respect to elections, to controverted elections, and to all matters connected with or incidental to elections shall, except where such laws may be inconsistent with this Act, apply in analogous cases to elections of Legislative Councillors.

Qualification for Legislative Councillors.

XI. No person shall be eligible, or shall sit or vote as a Legislative Councillor, unless he be a British subject, of the full age of thirty years, and shall have been a resident in Prince Edward Island for at least five years at any time prior to the *teste* of the writ of election.

Oath to be taken by candidate.

XII. At every Court to be holden for opening any election under this Act, every candidate proposed shall, before the said Court be determined or adjourned, subscribe and take the following oath before the Sheriff or presiding officer, who is hereby required to administer the same:

Form of oath.

I, *A. B.*, do swear, that I am a British subject of the full age of thirty years, and that I have been a resident in Prince

Edward Island, for a period of five years, prior to the *teste* of the writ issued for holding this election.

So help me God.

XIII. And every candidate who shall refuse or neglect to take and subscribe such oath as hereinbefore prescribed, shall be incapable of being elected at such Court, or of being returned as a Legislative Councillor, under this Act; nor shall the name of any such candidate be entered or recorded in the poll books; or if so entered, the same shall be expunged at or before the close or adjournment of such Court as aforesaid.

Consequences of candidate refusing to take oath.

XIV. No person shall be elected a Legislative Councillor who is a public defaulter, or shall have been convicted of a felony or of any infamous crime.

Disqualification in certain cases.

XV. No member of the House of Assembly shall be elected a member of the Legislative Council, and *vice versa*.

Members of Assembly ineligible.

XVI. The seat of an elective Legislative Councillor shall be forfeited in any of the following cases: if he be a public defaulter, or become a bankrupt, or insolvent, or take the benefit of any law whatsoever in relation to insolvent debtors, or be convicted of felony or of any infamous crime.

Forfeiture of seat of elective Councillors in certain cases.

XVII. The periodical election of a member of Council for the electoral district of Charlottetown shall take place every eighth year; and the periodical election of one member for each of the other electoral districts shall take place every fourth year, dated from the first election of the Council; and every such election shall be made within twenty days of the anniversary of the day on which the Act shall have come into operation.

Periodical election of members

XVIII. In order to such periodical election, one of the members for each electoral district, except that of Charlottetown, to be determined by lot during the first session of the Council, shall be deemed to have been elected for four years, more or less; and all other members of Council, except as hereinafter mentioned, shall be deemed to have been elected for eight years, more or less, from the date of his election; provided that every such member shall retain his seat until the election of his successor.

Determination by lot of the order for re-election of members.

XIX. Any Legislative Councillor may resign his seat by writing, under his hand and seal, addressed to the Lieutenant Governor or other administrator for the time being of the Colony.

How Legislative Councillor may resign his seat.

XX. In case any seat in Council shall, from any cause, become vacant more than three months before the same would have become vacant by periodical retirement, the President,

Powers of President, &c., in case of vacancy.

and several members of the Council shall have the same powers and duties in respect to the election of a new member to supply such additional vacancy as the speaker and several members of the House of Assembly in respect to any accidental vacancy in that House: provided that the writs for such election shall be made returnable within fifty days at furthest from the issue thereof.

When writs for election returnable.

Proviso.

XXI. Provided also that every such new member shall vacate his seat in the Council at the time when it would have been vacated in course of periodical retirement by the member whose place he occupies.

Former members reeligible.

XXII. In all cases, former members shall be capable of reelection, if otherwise qualified.

Seat of any member to be declared vacant if absent for entire session.

XXIII. If any member of the Council shall be absent from his place in the Council for one entire session, without the leave of said Council, his seat shall be declared vacant on the first day of the next ensuing session, in case such member shall then be still absent, and notice of such vacancy shall be given to the Lieutenant Governor, and proceedings thereupon taken, as hereinbefore provided for.

Laws of Assembly as to vacating seats on acceptance of offices, &c., to apply to Legislative Council.

XXIV. The laws of this Island relating to the vacating of seats of members of the House of Assembly upon the acceptance by them of office of profit or emolument, shall, under the same circumstances, apply to the vacating of the seats of Legislative Councillors under this Act.

Oath to be taken by Councillor.

XXV. Every Legislative Councillor shall, before taking his seat, take the following oath:

Form of oath.

I, A. B., do sincerely promise and swear, that I will be faithful, and bear true allegiance to Her Majesty Queen Victoria, as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of this Island, dependent on and belonging to the said United Kingdom, and that I will defend her to the utmost of my power against all traitorous conspiracies and attempts whatever which shall be made against her person, crown and dignity; and that I will do my utmost endeavor to disclose, and make known to Her Majesty, her heirs and successors, all treasons and traitorous conspiracies and attempts which I shall know to be against her Majesty, or any of them, and all this I do swear without any equivocation, mental or secret reservation, and renouncing all pardons and dispensations from any person or persons whatsoever to the contrary.

So help me God.

Crown to have no power to dissolve Council.

XXVI. The Crown shall have no power to dissolve the Legislative Council when elected under this Act.

XXVII. The Legislative Council shall appoint a President from its own members. Council to appoint President

XXVIII. Every member of the Legislative Council shall hold his seat for the term and subject to the provisions for vacating the same herein expressed ; and the Council as a body, and its members individually, shall possess and continue to exercise and enjoy all the authority, powers, privileges and honors now exercised and enjoyed by the Legislative Council of this Island, except as otherwise provided by this Act. Powers, privileges, &c., of Leg. Council, and of members individually.

XXIX. The presence of the President and of at least six members shall be necessary to constitute a meeting for the exercise of the powers of the Council ; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as the rules of the Council shall prescribe. Number present necessary to constitute a meeting.

XXX. All questions which arise in the Legislative Council shall be determined by a majority of votes of the members present, other than the President ; but when the votes are equal, the President shall have the casting vote. Mode of determining questions.

XXXI. The Legislative Council may establish rules for its government, and the attendance of its members ; it may punish members for disorderly conduct or for a breach of its rules, and with the concurrence of two-thirds of all the members, may expel any member for cause : provided that the rules and orders of the Legislative Council existing at the time this Act shall come into operation, shall continue in force, as far as applicable, until abrogated or altered. Authority to make rules.

XXXII. Each general election of members of the House of Assembly shall make a new parliament as heretofore. Every general election to be a new Parliament

XXXIII. The thirty-fourth section of the hereinbefore recited Act, of the nineteenth year of her present Majesty's reign, chapter twenty-one, shall be, and the same is hereby repealed. 34th Sec. of 19th Vic., c. 21, repealed.

XXXIV. This Act shall not go into operation, nor be of any force or effect, until Her Majesty's assent thereto shall be known, and notification thereof published in the *Royal Gazette* newspaper of this Island. Suspended Clause.

. This Act received Her Majesty's assent on the 1st day of Nov. 1862, as appears by a despatch from his Grace the Duke of Newcastle, Her Majesty's principal Secretary of State for the Colonies, dated 13th Nov. 1862 ; and a Proclamation of the Lieutenant Governor in Council, declaring [the same to be in force, was published in the *Royal Gazette* newspaper of this Island, on the 3rd of Dec. of the same year.

CAP. XIX.

An Act to authorize grants of the shores of this Island.

[Passed April 17, 1862.]

Preamble.

WHEREAS commercial enterprise in this Island would be much encouraged by the granting, to public companies or private individuals, parts of the hitherto ungranted sea shore of this Island, or the shores along the bays and rivers thereof for the sites of breakwaters, wharfs, slips and other such useful purposes. Be it therefore enacted by the Lieutenant Governor, Council, and Assembly, as follows, namely:

Lieut. Governor in Council authorized to issue grants of portions of the sea shores, &c., with or without conditions.

I. It shall be lawful for the Lieutenant Governor, by and with the advice of the Executive Council, to cause to be issued in Her Majesty's name, and under the seal of this Island, from time to time, as shall appear necessary, to any corporation, public company, or private person or persons, any grant in fee, or for life, or lives, or any lease for any term of years, at any reserved rent, of any part or parts of the hitherto ungranted portions of the sea shore of this Island, or the shores of the bays and rivers thereof, and with or without, and subject or not to any conditions, restrictions or limitations to be contained in such grants or leases, and at and for such price, consideration or yearly rent to be expressed in such grants or leases as to the Lieutenant Governor, in Council, shall appear just and reasonable.

No grants, &c., to be issued without the written consent of the owner of land fronting on the shore required to be granted.

II. Provided that no such grant or lease shall be made without the consent of the owner or owners of the farm, lot, or land in front of and abutting upon which such parcel of the shore required to be granted shall be situate; the said consent to be in writing, under the hand or hands of such owner or owners, and signed in the presence of one or more credible witness or witnesses: provided further, that the power intended to be hereby conferred on the said Lieutenant Governor, and Council, shall not extend to the shores or flats adjoining Charlottetown proper.

Meaning of the term "owner of land."

III. Every tenant in fee-simple in possession, or tenant in tail general in possession, and every tenant in possession of a term of years in which not less than forty years shall be unexpired, shall be deemed an owner of such land for the purpose of giving such consent as aforesaid.

Government may impose conditions on grantees, &c., to protect rights of the public.

IV. The Government of this Island shall have power, and it is hereby authorized, to impose upon such grantee or lessee of any part of the coasts or shores of this Island, under this Act, all such conditions as may be deemed necessary to protect the rights of the public in and to any highway, which may have been acquired by use or otherwise, along the shore or coast where any such grant or lease may be made.

V. Provided always, that nothing in this Act contained shall be held or construed to affect or in any manner to interfere with the right of any person to obtain from the owner or person entitled under the report or award of the Commissioners appointed by Her Majesty upon the land question, to any lands on the coast of this Island, formerly known as the fishery reserves, any portion of the said fishery reserve lands, in accordance with the terms and provisions set forth in the said report or award of the said Commissioners, the said report or award having been made and dated at Rothsay, in New Brunswick, on the eighteenth day of July, in the year of our Lord one thousand eight hundred and sixty-one.

Nothing in this Act to interfere with the fishery reserves.

VI. Nothing in this Act contained shall have any force or effect, until Her Majesty's pleasure therein shall be known and published in this Island.

Suspending clause.

. This Act received the royal allowance on the 1st day of November, 1862, as appears by a despatch from the Duke of Newcastle, Her Majesty's principal Secretary of State for the Colonies, dated 13th November, 1862, and published in the *Royal Gazette* newspaper of this Island on the 3d of December of the same year.

CAP. XX.

An Act to incorporate the minister and trustees of the Presbyterian Church at Elliot river, township number sixty-five.

[Passed April 17, 1862.]

☞ This Act has been printed in the volume of private and local Acts pursuant to Act 24th Vic. c. 3, sec. 2.

CAP. XXI.

An Act to incorporate the minister and trustees of the Presbyterian Church, Brookfield, township number twenty-three.

[Passed April 17, 1862.]

☞ This Act has been printed in the volume of private and local Acts, pursuant to Act 24th Vic. c. 3, sec. 2.

CAP. XXII.

An Act to promote vaccination.

[Passed April 17, 1862.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, as follows:

I. From and after the passing of this Act, it shall be lawful for the Lieutenant Governor in Council, and he is hereby required to nominate and appoint one competent medical

Lt. Governor to appoint superintendents of vaccination.

practitioner for each of the following places in this Island, to be superintendent of vaccination therein, namely: for the city of Charlottetown, and the common and royalty thereof, for Georgetown, its common and royalty, and for the town of Summerside.

Superintendent to appoint place within his district for vaccination.

II. Each and every superintendent so to be appointed, shall within four weeks after receipt of such his appointment, appoint a convenient place within his district for the performance at least once in each month, of such vaccination, and shall take effectual means for giving, from time to time, to all persons resident in each of the said towns, commons or royalties, respectively, due notice by advertisement in the *Royal Gazette*, of the days and hours at which he, the said medical practitioner, or superintendent, will attend once at least, in each month, at such place, to vaccinate all persons not successfully vaccinated, who may then appear there; and also of the days and hours, at which such medical practitioner will attend at such place to inspect the progress of such vaccination, in the person so vaccinated.

Parents and guardians of children under 12 years of age, &c., to take them within certain time to superintendent to be vaccinated.

III. The father or mother of every child born in any of the said districts who shall be under the age of twelve years, at the time of the passing of this Act, or who shall thereafter be born in any of the said districts for which such superintendents or medical practitioners shall be appointed as aforesaid, after the first day of July in the year of our Lord one thousand eight hundred and sixty-two, shall at some such appointed time within three calendar months after the passing of this Act, or after the time of the birth of such child, as the case may be, or in the event of the death, illness, absence, or inability of the father and mother, then the person who has the care, nurture or custody of the child, shall at some such appointed time within four calendar months after the passing of this Act, or the birth of such child, take, or cause to be taken, the said child to the superintendent or medical practitioner as aforesaid in attendance at the appointed place in the district in which the said child is resident, according to the provisions of the preceding sections of this Act, for the purpose of being vaccinated, unless such child has been previously vaccinated by some legally qualified medical practitioner, and the vaccination duly certified; and such superintendent or medical practitioner so appointed shall, and he is hereby required thereupon, or as soon after as it may conveniently and properly be done, vaccinate the said child.

Eight days after vaccination children to be taken before superintendent to be inspected.

IV. Upon the eighth day following the day on which any child has been vaccinated as aforesaid, the father or mother, or other person, having the care, nurture or custody of the said child, as aforesaid, shall again take, or cause to be taken, the said

child to the said superintendent, by whom the operation was performed as aforesaid, in order that such superintendent may ascertain, by inspection, the result of such operation.

V. Upon and immediately after the successful vaccination of any such child as aforesaid, in any of the said districts, after the said first day of July, in the year of our Lord one thousand eight hundred and sixty-two, the superintendent or medical practitioner who performed the operation, shall deliver to the father or mother, or other person having the care, nurture, or custody of the said child, as aforesaid, a certificate, under his hand, according to the form in the schedule to this Act annexed marked (A), that the said child has been successfully vaccinated; and such certificate shall, without further proof, be admissible as evidence of the successful vaccination of such child, in any information or complaint brought against the father or mother of such child, as aforesaid, for noncompliance with the provisions of this Act.

Superintendent to grant certificate of successful vaccination of child.

VI. If any superintendent or medical practitioner, appointed as aforesaid, shall be of opinion, that any child brought to him, as aforesaid, is not in a fit and proper state to be successfully vaccinated, he shall deliver to the father or mother of such child, or the person having the care or nurture or custody of such child, as aforesaid, on demand, and without fee or reward, a certificate, under his hand, according to the form in the schedule to this Act annexed, marked (B), that the child is in an unfit state for successful vaccination, and such certificate, or any similar certificate of a legally qualified medical practitioner, respecting any child born as aforesaid, shall remain in force from thence until such future day as shall be named by such superintendent, and the father or mother of said child, or the person having the care, nurture or custody of the said child, as aforesaid, shall take, or cause to be taken, to the said superintendent, the said child, on such day, and at such place as shall have been named by such superintendent for vaccination, and if the said superintendent deem the said child to be then in a fit and proper state for such successful vaccination, he shall forthwith vaccinate it accordingly, and shall upon, or immediately after the successful vaccination of such child, deliver to the father or mother of such child, or other person having the care, nurture or custody of such child, as aforesaid, a certificate under his hand, according to the form in the schedule to this Act annexed, marked (A), that such child has been successfully vaccinated; but if the said superintendent be of opinion that the said child is still in an unfit state for successful vaccination, then he shall again deliver to the father or mother of such child, or to the person having the care, nurture, or custody of such child, as aforesaid, a certificate under his hand, according to the form in the schedule

Where child not in a fit state for vaccination superintendent to grant certificate to that effect to parent, &c.

If at the expiration of every succeeding period child still unfit, certificate to be granted.

to this Act annexed, marked (B), that the child is still in an unfit state for successful vaccination; and the said superintendent, so long as such child remains in an unfit state for vaccination, and unvaccinated, shall, at the expiration of every succeeding period fixed by him, in manner aforesaid, deliver, if required, to the father or mother of such child, or to the person having the care, nurture, or custody of such child, a fresh certificate, under his hand, according to the said form in the schedule to this Act annexed, marked (B), and the production of such certificate, or of any similar certificate, from any legally qualified medical practitioner, shall be sufficient defence against any complaint brought against the father or mother, or person having the care, nurture, or custody of such child, for noncompliance with the provisions of this Act.

Where child proves unsusceptible of vaccine disease, certificate to be given to father &c.

VII. In the event of any superintendent, or medical practitioner, appointed under the provisions of this Act, or any other duly qualified medical practitioner, being of opinion that any such child, as aforesaid, that has been vaccinated by him is unsusceptible of the vaccine disease, he shall deliver to the father or mother of such child, or to the person having, as aforesaid, the care, nurture, or custody of such child, a certificate under his hand, according to the form in the schedule to this Act annexed, marked (C), and the production of such certificate shall be a sufficient defence against any complaint which may be brought against the father or mother, or other person having the care, nurture, or custody of such child, for noncompliance with the provisions of this Act.

Fee for vaccination.

VIII. In no case shall there be taken any greater sum than one shilling, currency, for the successful vaccination of any one person, which shall include the certificates required by this Act.

Counterfeiting or altering, &c., certificate, to be forgery, &c.

IX. Every person who shall forge or counterfeit, or in order to forge or counterfeit, shall erase or alter any superintendent or medical practitioner's certificate given under this Act, or shall utter, or use any such forged, counterfeited, altered, or erased certificate, knowing the same to have been forged, counterfeited, or erased, or altered, with intent to defraud, shall be deemed guilty of forgery, and shall suffer the pains and penalties now by law inflicted upon persons guilty of the offence of forgery.

Penalty for not causing child to be vaccinated, or taking child for inspection, &c.

X. If any father, mother, or person so having as aforesaid the care, nurture or custody of any such child, as aforesaid, shall not cause such child to be vaccinated within the periods prescribed by this Act, or shall not on the eighth day after the vaccination has been performed, take, or cause to be taken, such child for inspection, according to the provisions in this Act, respectively contained, then such father or mother,

or person having the care, nurture or custody of such child, as aforesaid, so offending, shall be liable to a penalty not exceeding ten shillings, to be recovered on summary conviction, as hereinafter prescribed.

XI. Every penalty imposed by this Act shall and may be recovered with costs of suit, before any two of Her Majesty's Justices of the Peace for the County wherein the offence on which the penalty is imposed, shall have been committed; or if in the City of Charlottetown, before the Mayor, or any two city Councillors, on the oath of one or more credible witness or witnesses, and shall and may be levied by warrant of distress on the offender's goods and chattels; and in default of goods and chattels whereon to levy, it shall be lawful to commit the offender to the common jail of the County wherein such offence shall have been committed, for any period not exceeding six months.

Mode of recovering penalty.

XII. After the expiration of two months from the conviction of any person for an offence against this Act, in respect of any child, no plea of such conviction shall be a sufficient defence against any complaint which may then be brought against the same, or any other person, for noncompliance with the provisions of this Act, in respect of the same child; but the production of the certificate under the hand of the superintendent of the district, or other legally qualified medical practitioner, according to any of the forms in the schedule to this Act, shall be a sufficient defence against any such complaint: provided always, that if the certificate produced in the form in the schedule to this Act annexed, marked (B,) in production thereof, shall not be a sufficient defence, unless the vaccination be thereby postponed to a day subsequent to that on which the complaint is brought.

After 2 months from conviction, father, &c. of child to be again liable for noncompliance with this Act in respect of the same child.

XIII. The superintendents or medical practitioners appointed under and for the purposes of this Act, shall once in every six months, make up a return of the number and ages of persons successfully vaccinated within their respective districts, together with a report of all such particulars relating to the subject of vaccination and the extension of its practice, as may be deemed necessary, and shall furnish the same to the Clerk of the Executive Council, to be laid before his Excellency the Lieutenant Governor, in Council.

Superintendent to prepare a return every six months, to be laid before Lt. Governor.

SCHEDULES.

FORM (A.)

I, the undersigned, hereby certify, that the
child of aged of in
Prince Edward Island, has been successfully vaccinated by
me.

(Signed) A. B.

Dated this day of 186

FORM (B.)

I, the undersigned, hereby certify, that I am of opinion
that the child of of
aged is not now in a fit and proper
state to be successfully vaccinated, and I do hereby postpone
the vaccination until the day

(Signed) A. B.

Dated this day of 186

FORM (C.)

I, the undersigned, hereby certify, that I am of opinion
that the child of of
is unsusceptible of the vaccine disease.

(Signed) A. B.

Dated this day of 186

CAP. XXIII.

An Act for vesting all estates and property occupied by or for
the naval service of the United Kingdom of Great Britain
and Ireland, in the Lord high Admiral, or the Commis-
sioner for executing the office of the Lord high Admiral of
the said United Kingdom for the time being.

[Passed April 17, 1862.]

Preamble:

WHEREAS divers messuages, lands, tenements, and here-
ditaments have been at various times purchased for the
use of the naval service of the United Kingdom of Great
Britain and Ireland, and conveyed to several different persons
in trust for Her Majesty and her royal predecessors, and her
and their heirs and successors, and the same have been placed
under the charge of the Commissioners for executing the office
of Lord high Admiral of the said United Kingdom for the

time being, and it is expedient that the same, and all other messuages, lands, tenements and hereditaments that may be hereafter purchased, or in any manner used and occupied by or for the said service, should be vested in the Lord High Admiral of the said United Kingdom, or the Commissioners for executing the office of Lord High Admiral aforesaid, for the time being: Be it enacted by the Lieutenant Governor, Council and Assembly, as follows:

I. From and after the passing of this Act, all messuages, lands, tenements and hereditaments, erections, buildings, and property whatsoever, which have been conveyed to, or are vested in any person or persons, or are held, or in any manner occupied by, or in the name of any person or persons in trust for Her Majesty, or her royal predecessors, and her or their heirs or successors, for the use of the naval service of the said United Kingdom, or of any of the departments of or belonging to the said naval service, by whatever mode of conveyance, or by whatever title, or for whatever estate or interest therein, the same shall have been conveyed, or be vested, held or occupied, together with the rights, members, easements and appurtenances to the same respectively belonging, shall be, and become, and remain, and continue vested in the Lord High Admiral of the said United Kingdom, or the Commissioners for executing the office of Lord High Admiral aforesaid, for the time being, according to the respective nature and quality of the said messuages, lands, tenements and hereditaments, and the several estates and interests of, and in the same respectively, in trust for Her Majesty, her heirs and successors, for the public service.

All lands, &c., conveyed &c., to any persons in trust for Her Majesty for the use of the naval service to become vested in the Lord High Admiral, &c., in trust for Her Majesty's service.

II From and after the purchase and conveyance, grant or demise thereof, all other messuages, lands, tenements and hereditaments which shall at any time or times hereafter be purchased, taken, held or occupied by the Lord High Admiral, or the Commissioners for executing the office of Lord High Admiral aforesaid, for the time being, or by any person or persons, by his or their order, for the naval service of the said United Kingdom, or of any of the departments of, or belonging to the said naval service, and all erections and buildings which shall then, or may be thereafter erected or built thereon, with the rights, members, easements and appurtenances to the same respectively belonging, shall in like manner be and become, and remain and continue vested in the Lord High Admiral of the said United Kingdom, or the Commissioners for executing the office of Lord High Admiral aforesaid, for the time being, and his or their successors in the said office, according to the respective nature and quality of the said messuages, lands, tenements and hereditaments, and the several estates and interests of and in the same respectively in trust as aforesaid.

All lands, &c., hereafter purchased to become vested in the Lord High Admiral, &c., in trust as aforesaid.

Upon the resignation, death, &c., of Commissioners, &c., or Lord High Admiral, lands, &c. to become vested in their successors.

III. Upon the death, resignation, or removal of the present Commissioners for executing the office of Lord High Admiral of the said United Kingdom, or of any of them, or of any future such Commissioners, or of any Lord High Admiral of the said United Kingdom, all such messuages, lands, tenements and hereditaments, respectively, shall become vested in and be held by the succeeding Commissioners for executing the office of Lord High Admiral aforesaid, or the Lord High Admiral aforesaid, as the case may be, and so in perpetual succession according to the respective nature and quality of the said messuages, lands, tenements and hereditaments, and the several estates and interests of and in the same respectively, in trust as aforesaid.

Property for the naval service to be conveyed to the Lord High Admiral.

IV. In all deeds, conveyances, leases, contracts and other instruments touching any estate, property, matter or thing relating to the naval service of the said United Kingdom, or to any department under the control of the Commissioners for executing the office of Lord High Admiral aforesaid, or whereto they or any of them shall be parties, it shall be sufficient to describe them generally by the style and title of "the Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland," without expressing their names, and all such deeds, conveyances, leases, contracts and other instruments wherein the said Commissioners shall be so described, and the execution or signature thereof, by any two of them, shall be as valid and effectual to all intents and purposes as if they or any of them had been expressly named therein, and had executed or signed the same.

Power to sell and exchange, &c.

V. It shall and may be lawful for the Commissioners for executing the office of Lord High Admiral aforesaid for the time being, or any two or more of them, or the Lord High Admiral aforesaid, to sell, exchange, or in any manner dispose of, or let, or demise any of the messuages, lands, tenements and hereditaments respectively which shall be vested in them under or by virtue of this Act, with their respective appurtenances, either by public auction or private contract, and in due form of law to convey, surrender, assign, or make over, or to grant or demise the same respectively, as the case may require, to any person or persons who shall be willing to purchase or take the same respectively, and also to do any other act, matter or thing in relation to any such messuages, lands, tenements and hereditaments which they or he shall deem beneficial for the public service in relation thereto, or for the better management thereof, which might be done by any person or persons having a like interest in any such messuages, lands, tenements or hereditaments.

Commissioners empowered to sue, &c.

VI. It shall be lawful for the said Commissioners for executing the office of Lord High Admiral aforesaid, for the time

being, or the Lord High Admiral aforesaid, for the time being, and they are hereby authorized and empowered to bring, prosecute and maintain any action, suit or other proceedings at law or in equity for recovering possession of any messuages, lands, tenements or hereditaments by this Act vested in them or him as aforesaid, and to distrain or sue for any arrears of rent which shall have or shall become due for or in respect thereof, under any demise from the said Commissioners, or Lord High Admiral, or any person or persons on their or his behalf, or on behalf of Her Majesty, and also to bring, prosecute or maintain, or to defend any other action or suit in respect of or in relation to the said messuages, lands, tenements or hereditaments, or any trespass or encroachment committed thereon, or damage or injury done thereto, and that in every such action or suit the said Commissioners shall be called "The Commissioners for executing the office of Lord High Admiral of Great Britain and Ireland," without naming them; and no such action or suit shall abate by the death, resignation or removal of such Commissioners, or any of them, or of such Lord High Admiral, any law, custom or usage to the contrary notwithstanding; and the said Commissioners or Lord High Admiral shall be entitled to recover costs for and on behalf of Her Majesty, where judgment shall be given for the Crown, and shall be liable to pay costs, where judgment shall be given against the Crown, in any such action, suit or other proceeding in like manner, and subject to the same rules and provisions as though such action, suit or other proceeding had been had between subject and subject.

Commissioners
&c., liable to
pay, and entitled
to receive,
costs, &c.

CAP. XXIV.

An Act for the naturalization of aliens.

[Passed April 17, 1862.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:

I. Any person of foreign birth, having resided in this Island for seven years, shall, upon taking and subscribing the oath hereinafter prescribed, be entitled to all the privileges of a natural born subject of Her Majesty. Such oath shall be as follows, *videlicet*:

Who may be
naturalized.

"I, *A. B.*, of do swear, that I have resided seven years in this Island, without having during that time been a stated resident in any foreign country, and that I will be faithful and bear true allegiance to the Sovereign of Great Britain and Ireland, and of this Island, as dependent thereon."

Form of oath.

So help me God.

And shall be administered by a Judge of the Supreme Court of Judicature, in open Court, during the term or terms thereof, and at the same time subscribed by such person in a book to be kept for that purpose.

Judge to file
certificate of
oath.

II. The Judge administering such oath shall cause a certificate thereof to be transmitted to the office of the Colonial Secretary, which shall be entered in a book to be kept for that purpose in his office; and a copy of such certificate, certified under the seal of the Island, shall be sufficient proof thereof, and of such person being admitted to all the privileges aforesaid, in all Courts whatsoever.

Proof, how
made.

False swearing,
perjury, &c.
Penalty, &c.

III. If any person shall falsely swear to the facts of residence in such oath contained, he shall be guilty of perjury, and liable to the penalty incident thereto; and upon conviction, shall forfeit all the privileges to which he might have been entitled under this Act.

Women, when
naturalized.

IV. Every woman married to a natural born British subject, or naturalized person, shall be deemed to be naturalized, and shall have all the privileges of such subject.

Fees for enter-
ing certificate
of oath, &c.

V. A fee of ten shillings shall be paid by the person naturalized, to the Colonial Secretary for entering the said certificate of the oath in the said book, to be kept as aforesaid; and for every copy of such certificate, certified under the seal of this Island, the sum of sixteen shillings and eight pence, the said fees to be applied to and for the use of the government of this Island.

Suspending
clause.

VI. Nothing in this Act contained shall have any force or effect until her Majesty's assent thereto shall be signified, and notification thereof shall have been published in the *Royal Gazette* newspaper of this Island.

CAP. XXV.

An Act to regulate the proof of certain documents in actions wherein certain corporations doing business in this Island are parties.

[Passed April 17, 1862.]

Ensemble.

WHEREAS in actions against corporations, or of any body politic or corporate, not being established or incorporated within this Island, upon any contract or engagement entered into by the said corporation, or body politic or corporate, doing business in this Island, by their known accredited agent or officer, the proof of such contract or engagement is very difficult to be obtained, owing to the necessity of the seal of such corporation, or body politic or corporate, and the signatures

of the officers of said corporation, or body politic or corporate, being strictly proved in those cases where the existence of such contract or engagement is put in issue; and whereas a total defeat of justice might be occasioned for want of such strict proof as aforesaid: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

I. From and after the passing of this Act, upon any trial of any cause before any Court in this Island, wherein it shall be necessary to prove any contract or engagement entered into by any corporation, or body politic or corporate, doing business therein, not being established or incorporated within this Island, and it shall only be necessary for the party or parties, plaintiff or plaintiffs, defendant or defendants, seeking to prove such contract or engagement, or to put the same in evidence before such Court, to prove that such contract or engagement has been duly signed or issued by the accredited agent or officer of such corporation, body politic or corporate in this Island, and upon such proof having been given the Court before which such trial shall be had, shall admit the same in evidence, and the same shall be considered as duly proved without any further or other evidence of the execution thereof by such corporation, body politic or corporate, any law, usage or custom to the contrary notwithstanding.

What to constitute sufficient proof of contract entered into by corporation or body politic not established within this Island.

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An Act for appropriating certain moneys therein mentioned for the service of the year of our Lord one thousand eight hundred and sixty-two. Executed.

[Passed April 17, 1862.]

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